

MEETING: CONSIDERATION OF DOCUMENTS PROTECTED
UNDER INTERNAL REVENUE CODE SECTION 6103

Tuesday, December 20, 2022

House of Representatives,

Committee on Ways and Means,

Washington, D.C.

The committee met, pursuant to call, at 3:00 p.m., in Room 1100, Longworth House Office Building, Hon. Richard Neal, [chairman of the committee] presiding.

Chairman Neal. Thank you all. Pursuant to notice, the Ways and Means Committee will now come to order. We are meeting today to consider materials containing confidential tax return information protected by Section 6103 of the Internal Revenue Code.

Given the confidential nature of the subject matter, I now move that, pursuant to clause 2(g)(1) of House Rule XI, the committee proceed to executive session.

Mr. Brady. Mr. Chairman, if I may be recognized.

Chairman Neal. The ranking member is recognized.

Mr. Brady. Mr. Chairman, I ask unanimous consent if any taxpayer information is public as a result of the markup today, the entirety of today's executive transcript be made public as well. This transparency is a precedent, as we have discussed, in both 2014 and 2019.

Chairman Neal. I think we are in broad agreement with the gentleman's request.

Is there any objection?

Hearing none, the question is on the ranking member's request that the documents -- not the documents, that the proceedings be made public at the appropriate time, proceedings, based upon availability.

All in favor? Opposed? So ordered.

Now, as we proceed to executive session, I would ask that the room be cleared. And as we clear the room, then we are going to give some time to make sure that our guests leave.

So why don't we get that out of the way then.

The chair would recommend that we move to executive session. All those in favor, signify by saying aye. Those opposed, no.

Mr. Brady. And on that, Mr. Chairman, I ask for the yeas and nays.

Chairman Neal. The ranking member has requested the yeas and nays. And the clerk will now call the roll as soon as our friends in the media move on.

The Clerk. Mr. Doggett?

Mr. Doggett. Aye.

The Clerk. Mr. Doggett votes aye.

Mr. Thompson?

Mr. Thompson. Aye.

The Clerk. Mr. Thompson votes aye.

Mr. Larson?

Mr. Larson. Aye.

The Clerk. Mr. Larson votes aye.

Mr. Blumenauer?

Mr. Blumenauer. Aye.

The Clerk. Mr. Blumenauer votes aye.

Mr. Kind?

The Clerk. Mr. Pascrell?

Mr. Pascrell. Aye.

The Clerk. Mr. Pascrell votes aye.

Mr. Davis?

Mr. Davis. Aye.

The Clerk. Mr. Davis votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

The Clerk. Mr. Higgins?

Mr. Higgins. Aye.

The Clerk. Mr. Higgins votes aye.

Ms. Sewell?

Ms. Sewell. Aye.

The Clerk. Ms. Sewell votes aye.

The Clerk. Ms. DelBene?

Ms. DelBene. Aye.

The Clerk. Ms. DelBene votes aye.

Ms. Chu?

Ms. Chu. Aye.

The Clerk. Ms. Chu votes aye.

Ms. Moore?

Ms. Moore. Aye.

The Clerk. Ms. Moore votes aye.

Mr. Kildee?

Mr. Kildee. Aye.

The Clerk. Mr. Kildee votes aye.

Mr. Boyle?

Mr. Boyle. Aye.

The Clerk. Mr. Boyle votes aye.

Mr. Beyer?

Mr. Beyer. Aye.

The Clerk. Mr. Beyer votes aye.

Mr. Evans?

Mr. Evans. Aye.

The Clerk. Mr. Evans votes aye.

Mr. Schneider?

Mr. Schneider. Aye.

The Clerk. Mr. Schneider votes aye.

Mr. Suozzi?

Mr. Suozzi. Aye.

The Clerk. Mr. Suozzi votes aye.

Mr. Panetta?

Mr. Panetta. Aye.

The Clerk. Mr. Panetta votes aye.

Mrs. Murphy?

Mrs. Murphy of Florida. Aye.

The Clerk. Mrs. Murphy votes aye.

Mr. Gomez?

Mr. Gomez. Aye.

The Clerk. Mr. Gomez votes aye.

Mr. Horsford?

Mr. Horsford. Aye.

The Clerk. Mr. Horsford votes aye.

Ms. Plaskett?

[No response.]

The Clerk. Mr. Brady?

Mr. Brady. No.

The Clerk. Mr. Brady votes no.

Mr. Buchanan?

Mr. Buchanan. No.

The Clerk. Mr. Buchanan votes no.

Mr. Smith of Nebraska?

Mr. Smith of Nebraska. No.

The Clerk. Mr. Smith of Nebraska votes no.

Mr. Kelly?

Mr. Kelly. No.

The Clerk. Mr. Kelly votes no.

Mr. Smith of Missouri?

Mr. Smith of Missouri. No.

The Clerk. Mr. Smith of Missouri votes no.

Mr. Rice?

[No response.]

The Clerk. Mr. Schweikert?

Mr. Schweikert. No.

The Clerk. Mr. Schweikert votes no.

Mr. LaHood?

Mr. LaHood. No.

The Clerk. Mr. LaHood votes no.

Dr. Wenstrup?

Mr. Wenstrup. No.

The Clerk. Dr. Wenstrup votes no.

Mr. Arrington?

Mr. Arrington. No.

The Clerk. Mr. Arrington votes no.

Dr. Ferguson?

Mr. Ferguson. No.

The Clerk. Dr. Ferguson votes no.

Mr. Estes?

Mr. Estes. No.

The Clerk. Mr. Estes votes no.

Mr. Smucker?

Mr. Smucker. No.

The Clerk. Mr. Smucker votes no.

Mr. Hern?

Mr. Hern. No.

The Clerk. Mr. Hern votes no.

Mrs. Miller?

Mrs. Miller. No.

The Clerk. Mrs. Miller votes no.

Dr. Murphy?

Mr. Murphy of North Carolina. No.

The Clerk. Dr. Murphy votes no.

Mr. Kustoff.

Mr. Kustoff. No.

The Clerk. Mr. Kustoff votes no.

Mr. Kind?

Ms. Plaskett?

[No response.]

The Clerk. Mr. Rice?

[No response.]

The Clerk. Mr. Chairman?

Chairman Neal. Aye.

The Clerk. Mr. Chairman votes aye.

Chairman Neal. The clerk will report the tally.

The Clerk. Mr. Chairman, on this vote I have 23 yeas, 16 noes.

Chairman Neal. There being 23 yeas and 16 noes, the motion is agreed to.

And I ask that the members of the committee clear the room of all non-designated staff, proceeding to executive session.

This might take a few minutes, so I would ask for some patience.

[Whereupon, at 3:06 p.m., the committee proceeded into executive session.]

[3:14 p.m.]

Chairman Neal. The committee is now in executive session. Under House Rule XI, clause 2(k)(7), evidence taken in executive session may not be released or used in public session without authorization of the committee. We are conducting this executive session because the materials under discussion contain confidential taxpayer information protected by 6103 of the Internal Revenue Code.

Pursuant to Section 6103(f)(4), as chairman, I have designated the members and staff in the room as my agents for the duration of this executive session.

Today, we will be considering whether to submit to the House a report and supporting materials related to the committee's investigation and review into the IRS' policy of subjecting a President's tax returns to mandatory examination, what we commonly refer to as the Mandatory Audit Program.

The investigation focused on the operation of the program from 2017 to 2020, which, by necessity, involved the tax returns and return information of former President Trump's tax returns from 2015 to 2020. I requested this information pursuant to my authority as chairman of the committee under 6103(f) of the Internal Revenue Code.

I now ask the clerks to continue to distribute the materials under consideration today.

Ways and Means Oversight Subcommittee Staff Director, Karen McAfee, and Joint Committee on Taxation Chief of Staff, Tom Barthold, will soon walk the committee through these documents, and members will be able to ask questions. In accordance with House rules, all of these materials were made available to you more than 24 hours in advance of this session.

I would like to note that we have consulted with the Office of General Counsel of the House and Parliamentarian about the procedure we are employing in this session.

House counsel wrote, and I quote: "The committee's receipt of 6103 materials from the IRS pursuant to subparagraph (f)(2), as well as the committee's vote to lift the executive session protections and submit the material to the House, the full House, pursuant to subparagraph (f)(4) are clearly authorized by law," end of quote.

Furthermore, quote: "It is the opinion of OGC that the speech or debate clause provides absolute immunity from any criminal penalties for both committee members and staff, regarding their official actions with respect to the submission of Section 6103 tax return and return information to the House," end of quote.

I would remind our colleagues that disclosing 6103 information to the media or unauthorized persons is not protected by the speech or debate clause before an official committee action has taken place.

Because the committee stands in executive session, members must remain in the room and cannot make any phone calls or use electronic devices during this phase of the meeting. With that, let me recognize myself for 5 minutes.

Thank you all for being here. As is always the case, the Ways and Means Committee is entrusted with great responsibility. Today, the weight of our job is heavy. Congress serves as the check on the executive branch, and our committee is entrusted with oversight of our revenue system.

We all come to the Ways and Means Committee with the goal of creating a fairer Tax Code, because at the root of it all, it is our Federal tax system that funds the democracy we all cherish and love. Our voluntary collection relies on the public's confidence that our tax laws are applied evenly and justly, regardless of position or power.

For almost 4 years, the committee has been reviewing how the IRS enforces the Federal tax laws against and ensures compliance by a President. This I would remind all

is not about just a President, this is about the Presidency.

A President is no ordinary taxpayer. They hold power and influence unlike any other American, and with great power comes great responsibility. Our Constitution insists that no American officeholder is above the law. When concern arose over Richard Nixon's tax returns and whether they were properly examined, the Internal Revenue Service established a procedure of mandatory audits for Presidents and Vice Presidents. The policy is simple and states, quote: "Individual income tax returns for President and Vice President are the subject of mandatory examination."

I would remind all that it was President Nixon on December 13th of 1973 that established the precedent that we are adhering to today when he asked the then-chairman of the Ways and Means Committee, Wilbur Mills, to direct the Joint Committee on Taxation to begin an examination of his tax forms.

Other than that, it is fair to note that very little is known about this program. We are only here today because 4 years ago, our request to learn more about the program under 6103 was denied. This was the first time that this key oversight function was hampered, and our committee's jurisdiction was challenged.

On behalf of the American people and to preserve congressional oversight abilities, the matter, at our behest, escalated in court. After a prolonged battle in the Federal Court, four decisions with three Federal Court initiatives, our legislative oversight authority was affirmed.

Today, we are considering reports that review the program. I want to be clear that these materials have been reviewed by both sides. When Mr. Brady requested access as the ranking member, I granted it, and his team had ample time for review.

The committee expected that these mandatory audits were being conducted promptly and in accordance with IRS policies. However, our review found that under

the prior administration the program was dormant. I emphasize the word "dormant." We now know the first mandatory audit was opened 2 years into the former President's presidency, on the day that this committee requested his returns.

We anticipated that the IRS would expand the Mandatory Audit Program to account for the complex nature of the former President's financial situation, yet we found no evidence of that. This is a major failure of the IRS, and certainly it is not what we had hoped to find. But the evidence is clear, and Congress must step in.

I propose legislation to put the program above reproach, ensuring IRS make sure that they conduct yearly, timely examinations while publicly disclosing certain information. I assume this legislation is something that after these gatherings, all Members of Congress should be able to agree to.

With this statutory requirement, IRS can work toward restoring integrity and the public's confidence in the Federal tax system. Our work has always been to ensure that our tax laws are administered fairly and without preference, because at times, even the power of a President can loom too large.

After President Nixon, the IRS attempted to put down its own guardrails in place. Today's facts on the IRS are damning. And this isn't the type of abuse I nor members of this committee, I believe, want in our Tax Code.

I would also point something else out today. This was not about being punitive. This was never about being malicious. We carefully reasoned our argument.

And I want to say a word of congratulations to all that are here. There was never a significant leak from this committee as to how we would proceed and on what basis or what tax forms were being reviewed.

I am always prepared to go one step further, because it is our duty. That is because of what it means to serve on this committee. I hope you will join me in what is

right for the American people.

And let me recognize the ranking member, Mr. Brady, for an opening statement.

Mr. Brady. Thank you, Mr. Chairman. Before I begin my remarks, I have a parliamentary inquiry.

Chairman Neal. The gentleman is recognized to state his parliamentary inquiry.

Mr. Brady. And this is not a gotcha. I am just wondering here. So, I understand the room was to be cleared once the committee voted to enter in executive session. I see in the audience Doug Letter, who is general House counsel for the House of Representatives. I recognize he is not a member of the committee staff. This is a departure from past procedures. We have a number of new members who were not here in 2014 or 2019, so this is a bit new for everyone.

So, I guess my question for Mr. Letter is, what is his role here today? Who is he advising? I would like our members, again, just to understand the role of the House counsel in the presence today.

Chairman Neal. So might I answer for Mr. Letter?

Mr. Letter. Yes, sir.

Chairman Neal. He is here to advise the committee on the speech and debate clause of the Constitution.

Mr. Brady. And that is solely the reason?

Chairman Neal. That is solely the reason.

Mr. Brady. I think that is appropriate. And I think for our members, certainly, you know, in issues like this, you can ask for counsel from your committee counsel, as we have, or for the House counsel, who is counsel equally representative and available for both parties and all members of the committee.

Is that correct, Mr. Letter?

Mr. Letter. [No verbal response.]

Mr. Brady. Thank you. Thank you, Chairman.

Chairman Neal. The gentleman is recognized.

Mr. Brady. So today, should Ways and Means Democrats take the unprecedented step to vote to make public private tax returns, you are unleashing a dangerous new political weapon that reaches far beyond any sitting or former President, and jeopardizing the privacy of every American.

To be clear, our concern is not whether President Trump should release his tax returns, as is traditional, or whether his returns are accurate. That is up to the IRS and the taxpayer. Our opposition to this unprecedented action is solely focused on protecting the privacy of American taxpayers from a Congress that can now, with the flimsiest of reasons, target political enemies to harass, embarrass, and destroy by making their private tax returns public.

This targeting is no longer limited to elected or public officials but can target private citizens, business and labor leaders, Supreme Court Justices, or even Members of Congress themselves.

No party, no individuals in Congress should have that power. We have been warning House Democrats for the past 4 years that in their rush to target a former President, not to unleash this dangerous new political weapon on the American people. With this action today, the political enemies list is back in Washington.

We have seen what happens when private tax information supplied by the IRS is used for political advantage, and it was the grounds for Articles of Impeachment against President Nixon. That is the basis of the Watergate reforms that continue today, to protect the privacy of American taxpayers, to ensure that private tax information is not used as a political weapon.

We got a glimpse of what abuse of power looks like when the committee revealed, and the IRS admitted in 2014 that the agency targeted Americans based on their political beliefs. Lois Lerner, as you may remember, apologized and resigned in disgrace for it.

Democrats have recently argued before the courts that they seek to improve the presidential audit program, but no congressional hearings have been held, no Member briefings, no serious efforts have been undertaken, just a rushed cursory glimpse targeting only one of many former Presidents and Vice Presidents whose returns have been audited, or we hope have.

And to improve an internal IRS program, the solution is to make confidential tax information public? No. It is clear what this is. It is a targeting of a political opponent. This is a dangerous precedent, precisely because it reverses Congress' post-Watergate taxpayer protections, and provides a new path to weaponize the Tax Code against political rivals or critics.

If our Democrat colleagues are serious about conducting real presidential audit oversight, rather than targeting the specific taxpayer, we will join you. And there is a clear precedent for a measured approach that preserves taxpayer privacy for everyone. Refer this matter to experts at the Joint Committee on Taxation, an independent organization with expertise in these matters.

Task them with reviewing the documents, comparing this presidential audit or these presidential audits against other similar audits and the IRS rules directing the reviews. They can then report back to this committee. And give them more than a mere 11 days to do so. Public statements by many Democrats in Congress and some on the committee make clear the desire to make private taxpayer returns public simply for the sake of political gain.

Mr. Chairman, this may not be your goal. I am convinced you understand the significance of today's action. It has always been the purpose and the goal of congressional Democrats and partisans in the party.

I urge our Democrat colleagues on the committee to turn back while you still can. We are not alone in this thinking. As one legal scholar has recently noted, Congress believes if the country's citizens do not trust that the government will not abuse their tax information, the uniquely successful voluntary system will be threatened. Taxpayer compliance will decrease.

If this committee makes private tax information public today, it will be a regrettable stain on this committee and on Congress and will simply make our politics more divisive and more disheartening. In the long run, I think every Democrat will come to regret this, certainly as we do, and perhaps sooner than we believe.

With that, Mr. Chairman, thank you and I yield back.

Chairman Neal. I thank the gentleman.

Let me now turn to Karen McAfee and to Tom Barthold to conduct a walk-through of the report we are considering today. Ms. McAfee is the staff director for the Ways and Means Oversight Subcommittee, and Mr. Barthold is the chief of staff of the Joint Committee on Taxation.

Let us begin with Ms. McAfee. Please proceed.

Ms. McAfee. Good afternoon, Chairman Neal, Ranking Member Brady, and members of the committee.

Chairman Neal. I should say that I call up the report. Please.

Ms. McAfee. For nearly 4 years, the committee has been reviewing the IRS' mandatory presidential audit program. In 1977, after questions arose about former President Nixon's tax returns, the IRS established the presidential audit program to

require a mandatory examination of the returns of Presidents and Vice Presidents. This policy is contained in the Internal Revenue Manual, which is a compilation of internal guidelines for IRS employees.

With respect to the presidential audit program, the manual simply states that, quote: "The individual income tax returns for the President and Vice President are subject to mandatory examination," end quote. No further guidance about the timing of the examinations or the scope are provided in the manual.

There were questions and concerns about the operation of this program when a President owns hundreds of businesses that flow through to his individual tax return. A review of the program seemed timely.

Since there have been so few Presidents in the Mandatory Audit Program, and the dates of any action taken by the IRS would identify a particular President, the IRS asserted that no information could be provided to the committee about the program without disclosing confidential tax information.

On April 3, 2019, the chairman requested the audit files and underlying tax returns of the former President, pursuant to the chairman's authority in Section 6103(f) of the Code. The former Treasury Secretary denied this request. This was the first time the committee's authority has ever been denied.

In June 2019, at Treasury's suggestion, former Treasury officials scheduled a briefing with committee staff on a bipartisan basis to brief the staff about the Mandatory Audit Program. At that briefing, no information was provided about the actual operations of the program, despite the chairman's authorization that all committee staff in attendance were authorized under 6103.

On July 2, 2019, the committee filed a lawsuit to obtain the requested returns and return information. After almost 4 years of litigation ending at the Supreme Court, the

committee received access to the necessary files and tax returns on November 22nd.

According to the IRS manual, and former Treasury officials at the June 2019 briefing, the returns of Presidents and Vice Presidents are kept in a safe at 1111 Constitution. The next day, to verify that the returns were there and determine the scope of further review, the agents designated by the chairman went to the IRS national office to begin review of the tax returns.

The individual tax returns for tax years 2016 through 2019 were available on that day. Since November 23rd, the designated agents reviewed the audit files for tax years 2015 to 2019, the individual income tax returns of the President, the income tax returns for six of the eight entities -- the remaining two do not file income tax returns -- and the employment tax returns for one entity. No audit files were provided for tax year 2020, and certain transcripts were reviewed as well.

There were fewer documents than expected for the 6 years of tax returns in the audit files of the nine taxpayers. In total, the designated agents reviewed about 1,100 electronic files, many of which were duplicates, one-page documents, shipping labels. We reviewed two banker boxes of tax returns and one banker's box of paper audit files.

At the June 2019 briefing by the former Treasury officials, the prior administration prepared briefing slides and attached materials used during a mandatory audit. In those slides, the prior administration attached sample IRS forms, notices, and publications that are sent to Presidents during the presidential audit process.

One of the publications attached to the slides was the IRS Publication 3498 entitled "The Examination Process." On page 3 of this publication, it states that, quote: "An examination conducted in person begins when we notify you that your return has been selected," end quote.

When reviewing the audit files, the designated agents looked for the forms,

notices, and publications referenced during the June 2019 briefing. After reviewing all requested tax returns and return information available, including the audit files and the transcripts, the designated agents concluded that the IRS Mandatory Audit Program was largely dormant during the prior administration, despite the requirement in the manual.

Based on testimony received during a February 2019 hearing at the Ways and Means subcommittee on oversight, the designated agents expected to find that the mandatory examinations of the former President's income tax returns were conducted on an annual basis and started promptly after he filed his return. This is not what we found.

And so, I know my time is short, so I am going to summarize. And then, therefore, we made a number of recommendations, based on the fact that the audit files were lacking, and many of the materials that we were looking for were not there. One of our findings was, that many of these returns actually were selected for examination after the President left office, and that was not what the designated staff were expecting to find.

And, with that, I yield back my time. Thank you.

Chairman Neal. Thank you, Ms. McAfee.

Let me recognize Tom Barthold, Joint Tax Committee.

Mr. Barthold. Mr. Chairman and members of the committee, permit me to provide brief background to the report that some of my colleagues and I have prepared for the chairman and that has been provided before you.

The chairman asked that I provide him with a report identifying positions on Mr. Trump's tax returns that, in my experience and that of my colleagues, might warrant further evaluation. This evaluation was designed to underpin our assessment of the IRS examination of the returns, which was also requested by the chairman.

Let me state what the report is not. The report is not an audit of these returns, and the report does not state any conclusion regarding the accuracy of any line on any return examined.

What the report does is ask questions, that from our experience, reviewing taxpayer return information on behalf of this committee and on behalf of the Committee on Finance in the Senate, we believe warrant verification or follow-up.

The report makes the same recommendation with respect to several different years. I will offer some examples. Charitable contributions. The Code sets forth substantiation requirements for different types of gifts, cash versus in-kind.

Even in years when there is no tax liability, substantiation of charitable values, specifically when they are substantial, can be important because carry-forwards affect future liabilities.

And we note that conservation easements are particularly fact-focused and have been an audit focus for the IRS. And conservation easement is one of the issues that we identify in the report.

Mr. Trump reported deferral of cancellation of indebtedness income. Because deferral affects multiple years of filing, validation of the additional amount is important.

Net operating losses were carried forward into the 2015 return and subsequent years. As multiple years of filings are implicated, again, this is an area that we thought validation of the initial amount would be important.

Mr. Trump owns interests in multiple partnerships and S corporations, and claims unreimbursed business expenses with respect to those entities. The treatment of such expenses depends upon the partnership agreement or, in the case of an S corporation, may properly only be considered a contribution of capital rather than the current deductible expense.

Because the value of these expenses flows through to Form 1040 in multiple years and were large, we think that the partnership agreements warrant review as well as the nature of the expenses, as often auditors have found in closely held businesses that sometimes personal expenses are represented as business expenses.

Sole proprietorship activities. The audits, again, of closely held entities often reveal personal expenditures being improperly deducted as business expenses. Because a number of the Schedule Cs filed with Mr. Trump's Form 1040s report only expenses or had income and expense exactly equaling, we thought, a sound review of the return should examine some of these schedules.

And it appears that one of the entities was engaged in selling residential and hotel units. It was also reporting a substantial cost-of-goods-sold deduction. We could find no information in the returns or the audit files regarding the inventory method employed. In general, real estate should not be treated as inventory and costs should not be recovered through a cost-of-goods-sold reduction to gross income. For that reason, we think that this warrants examination.

The report explains several other issues, we think, merit examination. But I, again, remind you that none of these questions mean that the income tax liability reported on the returns that we examined was inaccurate.

The report also provides a summary of what the IRS audit file showed regarding the IRS's approach to potential examination of the years 2015 through 2019. For no year was a Revenue Agent Report filed and, to my knowledge, none of the audits is complete. The audit plan for 2017 and 2018 appears different and broader than that outlined for years 2015, 2016, or 2019.

Given the complex nature of the business structure, we think the failure to engage IRS specialists in these examinations is concerning. Given that carry-forwards of

charitable contributions are important for future filings, we think it is a mistake not to undertake or to otherwise defer validating the value of charitable contributions.

And to some of the issues, we would recommend investigating what is reported on the books and records of the various entities. We did not find comfort in the IRS audit file statements that the engagement of legal counsel and a professional accounting firm in the preparation of the returns ensured accuracy.

I exceeded my allotted time. That concludes my brief overview, and I would be happy to try to answer any questions that the members might have.

Chairman Neal. Thank you, Mr. Barthold.

We remind members that Ms. McAfee and Mr. Barthold are present to answer technical questions regarding the law and the specific materials in front of you.

With that, are there questions? The ranking member is recognized for 5 minutes.

Mr. Brady. Thank you, Mr. Chairman.

Ms. McAfee, thank you for your service to the committee. Tom, good to see you again as always.

So, I had a little more time to review the documents than the mere 6 hours most members of this committee got.

Ms. McAfee, I did not see in your report the reason for public disclosure of these tax returns. So, what does public disclosure have to do with IRS audit procedures?

Ms. McAfee. The discussion draft, which is the legislation in the end of the report, what it would do is it would release certain audit file information to the public and then the related returns that go with it.

The goal of that is, just like attached to this report are, the selection for examination forms, so that you know that the mandatory audit is underway. So the

point of the legislation would be to make those public in a public fashion.

Mr. Brady. Let me understand. I don't mean to interrupt, but the IRS audits are not complete, are they?

Ms. McAfee. They are not complete.

Mr. Brady. So how does making private information public contribute to completing those audits? Doesn't the IRS have those returns already?

Ms. McAfee. It is not --. The legislation, the goal of the legislation is to make sure that the audits start on time and timely, close in time to when the President files the return.

Mr. Brady. So, Ms. McAfee, let me be very clear. If the goal of this whole exercise was to make the IRS rules statutory, seek more resources and deal with that issue, this could have been done 4 years ago. A simple discussion with House Republicans. We share many of those goals.

So, let me ask you this: Since releasing these publicly does nothing to contribute to the audits themselves, has Congress ever disclosed private tax information without the consent of the taxpayer?

Ms. McAfee. Congress did disclose tax information in 2014.

Mr. Brady. Excuse me. The actual tax returns of a private individual, can you cite in history Congress ever doing this?

Ms. McAfee. I am not aware of that.

Mr. Brady. We haven't. And I think that is a crucial precedent to consider as we move forward.

So, let me ask you this, because these actions set precedent for another majority to address investigations like this: Do you believe Americans have a right to know that Congress is about to publicize their private actual tax returns?

Ms. McAfee. I don't know that my opinions matter here. I was asked to do an investigation and to look and see what happened with the Mandatory Audit Program, and that is what my staff did.

Mr. Brady. So maybe I can be helpful here. So, has the committee majority notified the taxpayer of what you intend to disclose?

Ms. McAfee. I have not.

Mr. Brady. Does the committee majority have a consent agreement in place with this taxpayer?

Ms. McAfee. Not that I am aware.

Mr. Brady. So, the precedent going forward in another majority is there is no need to let a taxpayer know that Congress is about to make their returns public, their actual private returns public as a precedent.

Ms. McAfee. I don't know that that is a precedent. I just know what is happening in this situation.

Mr. Brady. Yes, ma'am. Unfortunately, it is.

Mr. Barthold, and look, thank you again for your service, but the issues we are dealing with here set a terrible and dangerous precedent. Mr. Barthold, thanks again for having you here. I know the report you made was done on short notice, 11 days, and dealt with what potential tax liabilities this taxpayer might have.

So, my question to you is, in your view, did you have adequate time to assess the purported reason for this investigation, the adequacy of the presidential audit process? Did you have adequate time to do that?

Mr. Barthold. Mr. Brady, not to be flippanant, but you know that I always like to have more time and be as thorough as possible. But I and my colleagues, we always try to do the best job possible in the time that is made available to us.

In more direct answer to your question, I think it was fairly clear in looking at the notes in the audit files that examinations had not begun in a timely fashion, and as I noted in my overview, the scope in some years seemed to be narrower. We did note in the --

Mr. Brady. So, Mr. Barthold, I respect you a great deal, but to use our baseball analogy, you balked a little on that one? My view is you would have sought more time to review the analysis correctly.

Thank you, Mr. Chairman.

Chairman Neal. I thank the gentleman.

Let me recognize the gentlelady from California, Ms. Chu, to inquire.

Ms. Chu. Ms. McAfee, I want to ask a very fundamental question, which is, why is it important to have a mandatory presidential audit program?

Ms. McAfee. The Mandatory Audit Program was established in 1977. It was established so that no IRS employee would have to make the decision to audit the President. It was put in place to restore taxpayer confidence. And that is why the program is currently in the Internal Revenue Manual.

Ms. Chu. And what are the consequences of this program not being carried out?

Ms. McAfee. There are no -- that I know of, there are no penalties in the Internal Revenue Manual for not carrying out the audit.

Ms. Chu. What is the importance to the American public of having a presidential audit program?

Ms. McAfee. The importance to the American public is so that all Americans can have confidence that all taxpayers are treated equally and fairly, and that is part of the reason that the program was established in the first place.

Ms. Chu. Thank you.

Chairman Neal. Does the gentlelady yield back?

Ms. Chu. Yes, I yield back.

Chairman Neal. Thank you.

So let me recognize the gentleman from Illinois, Mr. LaHood, to inquire.

Mr. LaHood. Thank you, Mr. Chairman.

Mr. Barthold, I have a series of questions I would like to get on the record related to your report. Obviously, we all know Congress has the authority to investigate and provide oversight, but on tax returns, we look to JCT for their comprehensive, expert, and detailed analysis. And that has been the precedent, and I think that is important.

When we look at President Trump's taxes and the Trump Organization, we look at a multi-billion dollar enterprise involving several different businesses, multiple corporations, several pass-through entities, carry-forward provisions.

When you look at the IRS Code provisions, many international tax provisions in there, and I believe over 20 different States there was taxes filed. Do you have any reason to dispute that comprehensiveness of the tax returns?

Mr. Barthold. I have no reason to dispute any statement you made, sir.

Mr. LaHood. So, how do we compare and contrast other JCT investigations that you have done, particularly under 6103. And as we look back over the last 20 years, one that stands out is the Enron case in 2002, multi-billion-dollar operation, several pass-throughs, other corporations, businesses.

Are you familiar with that investigation from JCT in 2002?

Mr. Barthold. Yes, I am, sir.

Mr. LaHood. And just to set the record straight, that was the Senate Finance Committee that did that.

You stated earlier that you took 11 days to put forth this report here today. In

2002, the Enron case took 52 weeks, 364 days.

So, a couple questions to get on the record.

In 2002, during the Enron case, 34 JCT staff and lawyers worked on the investigation. Mr. Barthold, how many members of your staff were involved in the project before us today?

Mr. Barthold. If I could correct your statement about Enron. In fact, it was 21 attorneys, accountants, and economists. To get to 34, that counted the administrative and support staff.

Mr. LaHood. Let me get back to my question.

Mr. Barthold. To answer your direct question, four, including myself.

Mr. LaHood. JCT conducted 46 interviews in 2002. How many interviews did JCT conduct here?

Mr. Barthold. We interviewed no IRS personnel as part of this review.

Mr. LaHood. Thank you. Seven major document requests were made last time in 2002. Over 100 banker's boxes in material were given in response.

Were there any such requests or responses here?

Mr. Barthold. We made no such requests and had no such authority.

Mr. LaHood. Thank you. Did JCT, in this case, interact with the IRS at all?

Mr. Barthold. Other than to be permitted into the offices and shown the materials, no.

Mr. LaHood. So, in terms of your investigative power here, I want to cite in your report on page 1 that I will read for the committee here at the second paragraph: "We did not have any investigative powers, such as the ability to issue information document requests, or to interview the IRS Revenue agents assigned to the audits. That would have provided us with more insight into the accuracy of the returns and the rationale for

the scope of the audits."

Can you give us the reason or the justification why you weren't given that ability?
And it is okay if you don't have an answer.

Mr. Barthold. Well, I would say that the questions we were asked were to raise questions and again, not to undertake an audit and unravel the entirety of Mr. Trump's income and business organizations.

Mr. LaHood. So, Mr. Barthold, just to clarify, in 2002, JCT was given investigative powers to do exactly what you did, correct?

Mr. Barthold. We also had the consent of the taxpayer. But yes, sir.

Mr. LaHood. Okay. And I understand JCT spent 6 weeks writing the 2002 report. How many days or weeks did JCT have to produce this 39-page report?

Mr. Barthold. We did write as we collected information, but for an approximate breakdown, 3-1/2 days' writing.

Mr. LaHood. Three and a half days.

And the JCT 2002 report comprised 2,700 pages in three volumes. As we have seen here today, this report is 39 pages today.

Mr. Barthold, did the majority here today give JCT a deadline for this report?

Mr. Barthold. No, other -- I mean, we knew roughly that the committee hoped to meet this week, so we wanted to be finished last week.

Mr. LaHood. JCT can do better than this. This committee can do better than this. This is inadequate. It lacks the detail. And I think it is clear by the Enron comparison. Thank you.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from California, Mr. Gomez, to inquire.

Mr. Gomez. Thank you, Mr. Chairman. The ranking member made some points

of what kind of precedent this will set for future Congresses, and that is something that I want to dig into a little bit.

How many people have served as President of the United States? Forty-six, roughly, forty-six Presidencies.

How many individuals serve as President at any given time?

Ms. McAfee. One.

Mr. Gomez. How many are the Commander in Chief of the Armed Forces of the United States?

Ms. McAfee. At a time?

Mr. Gomez. Yes.

Ms. McAfee. One.

Mr. Gomez. How many individuals can veto legislation?

Ms. McAfee. One.

Mr. Gomez. How many individuals can have the power to personally direct a department, an agency, a bureau?

Ms. McAfee. One.

Mr. Gomez. And who is that?

Ms. McAfee. The President.

Mr. Gomez. So the President of the United States is not like any other ordinary citizen. They have a unique place in our system of government. They are one branch of the equal branches of the Federal Government.

So to say that we are creating a precedent to investigate, or to beef up the auditing process and power of a President is not setting a bad precedent that will apply to every single ordinary American.

Ms. McAfee. That is correct.

Mr. Gomez. So one of the things I want to stress, if the incoming Republican majority decides to expand this precedent of the use of 6103(f) to labor leaders, Members of Congress, other individuals, that is a precedent that they will be setting, not the current majority that is currently in majority right now as we speak.

To fear monger that this is a precedent that we will be going after a shop owner is just incorrect. The President of the United States holds a unique position in our system of government. That is why they passed the mandatory -- not passed, but implemented this mandatory presidential audit, in order to understand the conflicts of interest, to make sure that they were following the law.

Am I missing something?

Ms. McAfee. No, you are not.

Mr. Gomez. So the idea that this is a precedent that will be set I believe is just incorrect.

With that, Mr. Chairman, I yield my time.

Chairman Neal. I thank the gentleman.

Let me recognize the gentlelady from West Virginia, Mrs. Miller, to inquire.

Mrs. Miller. Thank you so much. I am worried about the precedent that we are setting here today. It is dangerous in so many different ways. To me, it is a ticking time bomb. I am not really sure that you all grasp what you are doing here.

One big worry that I have is that you are about to broadcast personal information about a minor child. Should I repeat that? Personal information about a minor child. That is despicable. Here is what you are sharing with the world: The name and Social Security number of a child who was just 9 years old on the 2015 tax returns. And the world is full of people right now who are stealing people's identities.

I wonder if there is just so much hatred people are eaten up with that we have

lost our moral code on to what we are actually doing here. Why are we doing this? Have we removed the child's personal information?

Can you tell me why you haven't conformed to your own draft legislation, which protects personal information of children and adults? In the discussion draft on page 12, line 8, it states that the IRS shall not include the Social Security number of any person or the name of any individual under the age of 18. Tax returns released by President Obama have removed the Social Security numbers, including the social numbers of their children.

Can you please explain why this legislation has protection for personal information and yet today's reckless disclosure does not?

Ms. McAfee. I am happy to answer that question. Today's legislation and the tax returns that you saw came from the IRS that way. We did ask for the IRS to do the redactions, and the IRS told us they were unable to do that.

So, at the end of the chairman's script today, you will hear that we are planning to do redactions should the motion pass. And it would be, following along with the discussion draft, we would be redacting Social Security numbers. We would be redacting information about minors. And it is the intent to conform any tax returns that the committee votes to release to the legislation. We also would be redacting things like the PIN, which is the taxpayer Protection ID Number that is on the return. We would be redacting bank account information.

So there is a plan to redact should the information be submitted to the House, but when we asked the IRS if they could do that, they told us, no, they couldn't redact it, and two, you are Members of Congress and you have 6103 authority to see the returns in full. And that is the way that they provided it to us so that we could provide it to you for review in advance.

[4:00 p.m.]

Mrs. Miller. I think it is ludicrous that the IRS could not redact it before giving it to you.

Ms. McAfee. They said they didn't have the manpower to do that, as they only have a few individuals who are authorized to touch the returns for the President and the Vice President.

Mrs. Miller. That is unacceptable.

I yield back my time.

Chairman Neal. I thank the gentlelady.

Let me recognize the gentleman from Virginia, Mr. Beyer, to inquire.

Mr. Beyer. Thank you, Mr. Chairman, very much.

I address this to Ms. McAfee.

On page 22 of the draft report from Chairman Neal, there is a line at the top that says, "The staff failed to understand why the IRS believed that use of counsel and an accounting firm ensures accuracy."

I just want to point out that there is abundant legal examples, there are abundant legal examples that shows why you are skeptical of that, that simply the fact that you have lawyers and accountants, that doesn't mean that the things they are accurate and that lies are not being produced.

But further on that page, there are at least \$280 million worth of unsubstantiated deductions that are noted in the JCT review and in yours, \$121 million in charitable contributions, \$105 million-plus in net operating loss carryover schedule, \$27 million in unreimbursed partnership, cost of sold deductions, when it is not clear that anything is sold by the real estate company, almost \$127 million. This represents at least \$104

million in actual tax liability.

So there is much debate about the truth. We know that many people will debate the accuracy of this report if we vote to release it.

Is there any way that we can ensure the American public that these numbers are real without releasing the source documents?

Ms. McAfee. Well, the short answer is no. This is what the taxpayer had on their return. When we looked through the audit files, we did not see any other substantiation for these numbers. So the only thing that we do have as a source is the actual tax return, and that is what we have provided to members of the committee for their own review.

Mr. Beyer. So it is just, once again, if we hope, coming out of this committee, to provide the American public with a true and accurate oversight of both the audit process and what the President submitted, we can't have -- we can't give them any confidence without releasing the documents that go with this report.

Ms. McAfee. That is correct.

Mr. Beyer. Thank you.

Mr. Chairman, I yield back.

Chairman Neal. I thank the gentleman.

Let me recognize Dr. Murphy.

Mr. Murphy of North Carolina. Thank you, Mr. Chairman.

Just actually I am going to follow up with that question.

So you asked the beginning of the question but you don't allow an explanation. In other words, Mr. Barthold has put it in his report that there are questions of inquiry, things that needed to have information brought forward, correct?

Okay.

So if we have not allowed the taxpayer to bring that information forward and we just bring out the raw numbers, do you believe that is fair to the taxpayer?

Ms. McAfee. Well, our position is that we were asked, my staff, to review the audit files, and this is what we found in the audit files, and we have presented that information to the committee. And, therefore, it is up to you to decide whether or not you think that that is fair to the taxpayer.

Mr. Murphy of North Carolina. My mother always told me that half the truth was a lie. So, I just don't know that we are getting the real truth to the taxpayer.

So, answer me this, please. This is an honest question. What good -- the process is, the whole purpose of all this is to make sure the IRS is doing what they are saying they are doing, correct?

Ms. McAfee. Correct.

Mr. Murphy of North Carolina. That is the whole purpose.

Ms. McAfee. Correct.

Mr. Murphy of North Carolina. So, it is hard to look at just one particular person involved. Why haven't we looked at auditing -- of what auditing was done of President Obama, of Biden, of Reagan? Why haven't we looked at all of them during this process, rather than just one individual, to see if the process is working? Why is one particular person being singled out?

Ms. McAfee. So in the June 2019 briefing with committee staff that was the done on a bipartisan basis with the prior administration, we did ask about former Presidents. We did ask about what had happened with former President Obama, former President Clinton, and other former Presidents. And the prior administration told us that they would not tell us that information because they did not recognize our 6103 authority. So those questions were asked.

The lawsuit only covered the prior administration that just passed and, therefore, we were just enforcing the June 2021 letter and that went only to the prior administration. So we were not able to go back and to look at other Presidents and to see the history on this program. But we did ask that question in June of 2019 at our briefing, and we were told that we could not have that information.

Mr. Murphy of North Carolina. So you can see that in an effort to get to the, quote, "truth", that if we release just one person's tax returns, we are really not giving the whole truth --

Ms. McAfee. I don't -- I don't have any --

Mr. Murphy of North Carolina. -- as to whether the IRS --

Ms. McAfee. The only information that I have is what we looked at in this investigation.

Mr. Murphy of North Carolina. Right, correct, because it is only one piece of information. So one piece of information does not lead to the whole truth.

I still, again, I just have to go back. Why does release of the public raw data -- I never -- we never release in medicine and science just raw data. We have analysis of it. We have questions of it. We have audits of it. We have all information from coming all around so we can come to a verified objective conclusion.

Why does just releasing a tax return provide the information that we as a committee are asking to be furnished, whether they -- again, going back to the whole purpose is, is the IRS doing their job, how can releasing raw data of a single tax return provide that information?

Ms. McAfee. The question that we were asked to look at was whether or not the Mandatory Audit Program is working. Our conclusion is that it is not working and that it is not selecting Presidents and reviewing their returns in a timely basis.

We then asked the Joint Committee on Tax if they could look through the return to see if there were any issues that were raised. Now that we have looked through the return and we see that there are issues that are raised, releasing the information that is underlying -- our underlying basis for our conclusions, that is the reason that the returns were also provided to you for consideration.

Mr. Murphy of North Carolina. Thank you.

I will yield back.

Mr. Brady. Would the gentleman yield for just a moment?

Mr. Murphy of North Carolina. I will yield.

Mr. Brady. So, I want to make sure this is accurate. You said you reviewed the audits of Presidents to determine if this process is working. I see the reviews of one President. Did you misspeak?

Ms. McAfee. That is correct. What we reviewed in this June 2021 letter was only one President.

Mr. Brady. A singular President.

Thank you.

Ms. McAfee. That is correct.

And we asked in June of 2019 about other Presidents and were not provided with the information.

Mr. Brady. But you don't have that information in your report.

Ms. McAfee. And I do not have that information because it was not in the 6103 request. That is correct.

Chairman Neal. Just before I go to Mr. Blumenauer, recognize him, nine of the last ten Presidents of the United States have voluntarily submitted their tax forms for public scrutiny.

Mr. Blumenauer is recognized.

Mr. Blumenauer. Mr. Chairman, that was the going to be my point, that President Obama, President Bush, President Clinton released all their tax returns for a number of years.

So it seems to me that this is much less of a concern for people who have followed through, what every President since Richard Nixon has done voluntarily -- and, ironically, what the previous President said he was going to do.

So I think it is a misplaced concern about whether or not we have adequate information about prior Presidents.

Mr. Brady. So would the gentleman yield?

And just very technically, and I am not --

Mr. Blumenauer. Sure.

Mr. Brady. -- certainly not confronting you.

Mr. Blumenauer. Yeah.

Mr. Brady. We are friends. So I think the question --

Mr. Blumenauer. We don't have much time to confront each other. Go for it.

Mr. Brady. I know, and the fruitcake is ripening.

But the quest of the committee was not to make the private -- these tax returns public, as has been tradition. This was to assess the presidential audit system. Why didn't you seek the audits of future -- past Presidents to be able to review them? That is the question before us, not whether he should make it public or not. I actually agree with that. But why didn't you seek the IRS audits of those past Presidents as well?

And I apologize. I yield back. Thank you. You are very kind to do this.

Mr. Blumenauer. To the ranking member, I think we were attempting to deal with an area of concern about the IRS complying with the authority of the committee.

And we have seen that in the material that we have received that under this section that the IRS has not been undertaking those audits. And I think this was important information for the committee to have.

I am open, if somehow we think there is a problem lurking, to go back further in time. I am less concerned about that, given the fact that the transparency of these previous Presidents allays concerns that I have.

I am concerned that the IRS has not done what it was tasked to do, and the material that has been provided to the committee indicates that for 4 years they have not complied with the statutory requirements.

Chairman Neal. Mr. Blumenauer, the gentleman from California would like you to yield to him for the last 2 minutes and 16 seconds.

Mr. Blumenauer. I would be happy.

Mr. Gomez. And didn't the lawsuit specifically focus on the previous President and not -- and we had it -- and the IRS complied with handing over the documents that were outlined in the lawsuit?

Ms. McAfee. That is correct. The Supreme Court decision came down on November the 22nd. That decision was for the June 2021 letter, and the request in the June 2021 letter was the tax years 2015 to 2020 of the former President and eight of his businesses.

Mr. Gomez. So the IRS is complying within the bounds of the Supreme Court decision.

Ms. McAfee. That is correct.

Mr. Gomez. And that is why we are focused on the Supreme Court decision and this particular individual.

Ms. McAfee. That is correct.

Mr. Brady. Wait. Wait. Wait.

Would the gentleman yield?

Mr. Gomez. Yes.

Mr. Brady. This is your request the Court ruled on. We are not complying with the Supreme Court rule. The Supreme Court is complying and affirmed your request, which was specific to one President, not the entire presidential audit process -- which, by the way, we would have been very interested in joining with you in looking to see if that process works, or how well it works, and if they have the resources to do it right.

So, I just want to be very clear that we are not here because the Supreme Court, frankly, is driving this truck.

Mr. Gomez. But we do go back to the June 2019 meeting, which was bipartisan, where we did ask about former Presidents' audits, and the IRS did not recognize the 6103(f) authority. So that is where the lawsuit comes out of.

But in the future, if the majority wants to take a harder look at Presidential audits and if it is working, I think that you will find a lot of agreement on this side of the aisle.

With that, I yield back to Mr. --

Chairman Neal. Blumenauer --

Mr. Gomez. -- Blumenauer.

Chairman Neal. -- for his time.

Mr. Blumenauer. Mr. Chairman, I will yield back.

Chairman Neal. The gentleman yields back his time.

The gentleman from Oklahoma, Mr. Hern, is recognized to inquire.

Mr. Hern. Thank you, Mr. Chairman.

You know, I am sitting here listening to this. And as a business person for 35 years, certainly never been President, but I am often asked about -- and don't take the

affront to what I am about to say -- I am often asked by my business people, friends back home, and people who elected me: What is the biggest surprise you see in Congress? And I say it is how many people talk about things they know nothing about.

And my question to you is, not to be direct, but you wrote this majority report, and you talk about things. And, Mr. Barthold, I worked with you a lot on budget stuff for the last 2 years with RSC. So, I consider you to be a very, very intelligent man that wants to do a very thorough job. And I find it very difficult in 11 days that you did a thorough job.

But, Ms. McAfee, when we are talking about Schedule C's and Schedule E's and partnership returns on the 1065 and the 1120-S's and K-1s and 1116s, is that your bailiwick? Is that where you reside on a daily basis? Is that something you look at all the time?

Ms. McAfee. That is not something that I do here at the committee. But I do have a degree in accounting, and I did work in a white collar and tax litigation practice in a New York law firm. And after that, I worked in a Chicago law firm where I did entity formation and tax in the tax practice, as well.

Mr. Hern. So reclaiming my time --

Ms. McAfee. So I am generally familiar with the returns and how they work and how they go together.

Mr. Hern. So did you -- was your assessment based on what Mr. Barthold did, when you said that you the thought the conservation easement deduction of \$21 million was egregious and unfounded?

Ms. McAfee. What I was doing in that portion of the report was just simply stating his conclusions, and I think I referenced that to JCT.

Mr. Hern. We know you did. You had 11 days to go through and pick things

apart to say that you just thought those just looked out of the ordinary.

I think what you also say that your concern has been is that there is no way he prepared his own tax returns. So you are not arguing that he committed any fraud. He certainly didn't violate any laws because there is no law on the books that says he has to report his tax returns. Is that correct?

Ms. McAfee. Do you mean to make them public?

Mr. Hern. Correct.

Ms. McAfee. Is that your question?

Mr. Hern. Correct.

Ms. McAfee. That is correct. There is nothing on the books.

Mr. Hern. So, he didn't break the law, as has been implied in the media that he has broken some kind of stated law. He broke tradition. There are a lot of traditions this time of year.

Question for you. You filed this lawsuit in 2019. Obviously, you had a President in the White House that was not going to support you in the legislation. Why didn't you all, starting last year when you had the White House, you had the Senate, and you had the House, why didn't you just pass legislation to force the IRS to do this over the last 2 years? You had all the levers of government.

Ms. McAfee. Okay. I did not file the lawsuit. The lawsuit was filed by the chairman.

Mr. Hern. Okay. Well, I am just asking --

Ms. McAfee. So I would defer that question to the committee chairman.

Mr. Hern. You guys are asking about why the IRS isn't doing this and why it isn't allocating resources. You have had the power, all three powers of government for the last 24 months now to do this, to put this in place so that we wouldn't even be having this

hearing right now. We would already have the mandate done. They could have audited it forever, as far back as they wanted to go, no lawsuits. It would have been the law. Why wouldn't we have passed the law so we wouldn't have to be dealing with this again in the future?

Ms. McAfee. Again, I would defer that question to the chairman.

Mr. Hern. I am just a simple guy. I am just asking a question.

Voice. [Inaudible.]

Mr. Hern. Well, I am asking a question. I mean, you guys, you are the attorney. I am just -- okay.

Hypothetically, why wouldn't you have done it?

Ms. McAfee. What would I have done with what?

Ms. Plaskett. She is not a Member of Congress.

Mr. Hern. Do you want to answer that question?

Excuse me?

Chairman Neal. The witness is not here to opine.

Mr. Hern. Excuse me?

Chairman Neal. The witness is not here to opine.

Mr. Hern. Okay. You said that we had to have the public release to exact an audit, to get an audit started. Is that right? Did you say that?

Ms. McAfee. I did not say that we had to. I said that was part of the legislation. And there is a vote here at the end to determine whether or not you would like to submit the report and the attached documents to the House.

Mr. Hern. Short of the vote taking place, what would -- what other ways can we get the IRS to do their job other than releasing his public -- his tax returns publicly?

Ms. McAfee. Well, I am also not exactly an expert on what gets the IRS to do

their job. But I do know that they follow the law. So enacting a statute would definitely help.

Mr. Hern. Thank you for answering my previous question.

I yield back, Mr. Chairman.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Nevada, Mr. Horsford, to inquire.

Mr. Horsford. Thank you, Mr. Chairman.

I am going to forego my concerns about the previous colleague's questioning of the committee staff. I will just say I feel it is very inappropriate and not the role that Ms. McAfee has.

I would like to ask if you or Mr. Barthold or others could speak to the procedural history on pages 7, 8, and 9. There was a chart that was put up by the other side about the number of days that was taken in this process versus Enron. I don't quite understand the analogy between Enron and any one individual taxpayer.

But could you walk through the procedural history, specifically the amount of time that was held up in this process between either the prior administration's unwillingness to cooperate and the court proceeding time?

This was literally just approved by the Supreme Court. So you had how much time to act based on the decision of the Supreme Court? And if you could go back to when this actually started based on the report that we have before us.

Thank you.

Ms. McAfee. So the procedural history, as outlined in the report, began on April the 3rd of 2019. That is when the chairman sent his first request for information.

After that, we also issued a subpoena. And the subpoenas were issued, and then they were denied.

And then in July of 2019, the committee filed in the District Court here in D.C. And then after -- we had to wait a while for the district court to rule. Once they ruled, then it went on appeal. And it was decided by a three-judge panel. And then after that, a rehearing was requested.

And then initially we won again. And then there was another appeal, and that went to the Supreme Court.

And all of that did not get decided until November the 22nd of 2022. So it has been roughly 4 years.

Mr. Horsford. So had either the taxpayer, the prior administration, the IRS, Treasury, or any of those court proceedings, had they cooperated and/or had those delays in legal tactics not been deployed, then you would have been given the information in a more timely manner. And, therefore, you could have done what I guess some of them are suggesting, which is had more time to review the documents that were finally approved by the United States Supreme Court under Chief Justice John G. Roberts on November 22, 2022.

Ms. McAfee. That is correct.

Mr. Horsford. And today's date is?

Ms. McAfee. December 20 of 2022.

Mr. Horsford. Thank you, Mr. Chairman.

I yield back.

Chairman Neal. The gentleman yields back.

Let me recognize the gentleman from Nebraska, Mr. Smith, to inquire.

Mr. Smith of Nebraska. Thank you, Mr. Chairman. Thank you for the exchange that we can have here today. I think, as has been noted, this is unprecedented in its nature.

I have some questions here.

Ms. McAfee, is it your professional judgment that the documents, the report, and the associated documents, are ready for public release?

Ms. McAfee. Well, I think I would separate them into two categories.

So I would say that the reports would be ready or could be ready for submission to the public, if that is what the committee decides.

I would say, if the committee goes further and takes a vote and decides they want to submit the tax returns to the House, if that were to happen, there would need to be some time. Those are not ready. As I had explained to Mrs. Miller, we had other things that we had wanted redacted from those returns.

Mr. Smith of Nebraska. Would that be in the form of two different motions? Would that be appropriate?

Ms. McAfee. I think that is a question for the chair.

Mr. Smith of Nebraska. Okay.

Now, it was mentioned earlier that there was an attempt to redact information, personal information, prior, and that was rejected by the IRS. That probably involved a lot more discussion.

But what standards do you think should be applied for redaction?

Ms. McAfee. Well, it is not exactly what the standards that I would want. It is what the chairman and the committee would decide. But I do know --

Mr. Smith of Nebraska. Would there be another vote to establish that?

Ms. McAfee. That would be up to the chairman and how he would like to proceed with that.

As you -- as Mrs. Miller and I had the exchange, you can see many of the items that we would think should be deleted. Those are in the legislation that was attached to

the report. So I would say that that is probably a minimum of where we would start. And anything else would be agreed upon by the members, and that wouldn't be my decision.

Mr. Smith of Nebraska. Okay. There has been discussion already that the audits are incomplete. And certainly Mr. Barthold, a very thorough professional, numerous places in his report, after 11 days -- and some of us would say that is a lot of time, some of us would say that is not enough for something of this magnitude, a discussion for another time perhaps.

But, for example, the audit has not been completed. Accordingly, we cannot comment on the resolution of any issues.

There does seem to be somewhat of a conclusion that there would not have been any tax increases with reviewing the documents that have been out there.

So, nonetheless, the audits are incomplete.

Is it the practice of the IRS to ever cast judgment on a taxpayer in the middle of an audit or in this case to allow the public to form their own judgment in the middle of an audit?

Ms. McAfee. I don't know what IRS practice has been. I can say that under the rules of Section 6103, I do not believe that the IRS would ever publish information about a taxpayer absent an exception in the code.

Mr. Smith of Nebraska. Okay.

Mr. Barthold, again, thank you for your being here today. Reading through your report here, obviously, the incomplete nature of the situation and yet this desire apparently -- perhaps not, I hope not -- but certainly the chance that this information would be given, released to the public without full audits being completed, can you reflect on that reality?

Mr. Barthold. In the report we tried to emphasize that we are asking questions of areas that we thought required substantiation or questions of law and application of the law that the IRS in an examination should apply.

So, again, we are not suggesting that there was an audit, that there was an underpayment of tax or an overpayment of tax, or that any particular number on any line was, in fact, accurate.

There were questions. As I noted, some relate to closely held enterprises, whether there is a mix of personal expense with business -- inappropriate mix of personal expense and business expense as one simple example.

Another example, there were interfamily loans. Depending upon the terms of the loan, if it is not a true loan, then it is potentially a gift, which has repercussions --

Mr. Smith of Nebraska. Okay.

Mr. Barthold. -- both for the donor and for the recipient of the loan, gift.

Mr. Smith of Nebraska. Thank you. And I appreciate that reflection.

My time is out. I will yield back.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Arizona, Mr. Schweikert, to inquire.

Mr. Schweikert. Thank you, Mr. Chairman.

And I don't want to sound too sophomoric, so please.

My understanding so far, we are just conflating almost two parallel discussions. One is a bit about the discussion draft fixing the presidential audit procedures and those things, correct?

Chairman Neal. There is considerable conflation that takes place here frequently.

Mr. Schweikert. Oh, yeah, yeah, yeah. I was going to try to be a little sarcastic.

And I said no.

Chairman Neal. You did fine.

Mr. Schweikert. It is so obvious.

And then there is the sidecar here saying, okay, this is -- we are doing some Kabuki theater -- which I have never truly understood -- to basically justify releasing someone's taxes. I mean, is that a moment of honesty going on here?

Chairman Neal. No.

Mr. Schweikert. Okay.

Chairman Neal. If you are asking me, I would like that on the record. The answer is no.

Mr. Schweikert. Okay. So we should be actually having a discussion about your technical explorations and your discussion draft and doing this, and I don't have to worry about you taking a private citizen's taxes and publishing parts of that.

Chairman Neal. We will -- the committee will proceed at the end of the discussion, and we will have the further conversation on that.

I do think that one of the points that I have tried to make for the better part of 4 years is that the IRS had not done their job.

Mr. Schweikert. Okay. And that is fine, and you are working on a piece of legislation here that many of us will help you on that will fix that.

But Mr. Chairman -- Ms. McAfee, as I am skimming through this, where is the section that actually goes back in time? So, if this passes, let's say, in the first few months of the next Congress, where is the part where it goes back in time and says, "Hey, we want to grab other people's, maybe other Presidents'"? It's there a part here where we go backwards?

Ms. McAfee. It is not retroactive.

Mr. Schweikert. Okay. So it is not retroactive.

So, Mr. Chairman, I will take you at your word that we are working on a discussion of why this is needed. Great. Wonderful conversation. If you are trying to create a justification, saying, okay, we are going to do this and do a shell game, that is a little duplicitous.

Chairman Neal. Sure. It is not a shell game. It is an attempt to clarify any of the disagreements that might exist as to how the manual at the Internal Revenue Service dictates what the IRS should do as it relates to a President's tax form.

Mr. Schweikert. Mr. Chairman, great. A number of us are here to work with us on this because I am one of those who believes we should formalize this process. But it is for the future. Your legislation doesn't go backwards.

And with that, I yield back.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Texas, Mr. Arrington, to inquire.

Mr. Arrington. Thank you, Mr. Chairman.

Mr. Barthold, there was a solemn warning that came from Judge McFadden when he ruled that Trump's tax returns could be requested and delivered to the committee upon the request of the chairman.

But I found it curious that he said, in fact, the committee has the authority to do this, but he said: I am not advising that it is right or wise to make those tax returns public.

What do you think he meant by that? It strikes me as very intentional for a judge in such serious matters to qualify his statements.

What do you think about that?

Mr. Barthold. Well, Mr. Arrington, you are way out of my sphere of expertise in

trying to understand --

Mr. Arrington. Let me help you with some Texas logic and --

Mr. Barthold. Okay.

Mr. Arrington. The logic goes like this.

Chairman Neal. Can that be repeated in this room?

Mr. Arrington. The law is the basic requirement of our citizens and of ourselves.

It is not the standard by which we strive to conduct our business, not for any of us.

Doesn't mean we always hit the mark. But our collective intentions should be to strive to satisfy our conscience and to look into the future and anticipate the grave implications of our actions.

I think the actions today, if I am reading the room right, are going to be devastating, devastatingly damaging to this institution, to this committee.

Let me go on.

In your cursory review, Mr. Barthold, did you find structural problems with the audit, with the presidential audit process? Just yes or no.

Mr. Barthold. I will -- well, I would like to hedge it.

Mr. Arrington. Just yes or no.

Mr. Barthold. I will lean toward yes.

Mr. Arrington. You found structural flaws with the presidential audit.

Mr. Barthold. In the lack of uniform scope, in the failure to require -- to draw on the specialist network within the IRS, the seeming failure to validate certain large expenses that were otherwise of interest and concern --

Mr. Arrington. Okay. I believe you. I believe you.

So, do you advise that if we can file some legislative fix to addressing those concerns, can you advise us on that? And is it time to collectively solve that problem if

there, in fact, is a problem?

Mr. Barthold. Well, as Ms. McAfee has said, the chairman has put before you some thoughts on how to make this a routine mandatory procedure for the IRS and, well, basically to systematize it.

Mr. Arrington. Ms. McAfee, I heard my colleagues say that other Presidents have disclosed their tax returns.

Did we request information from the past President, President Trump's tax information, that was more detailed than other past Presidents have divulged voluntarily?

Ms. McAfee. I would need to go and revisit the --

Mr. Arrington. My understanding is --

Ms. McAfee. -- the past history website. But my understanding is, yes, many --

Mr. Arrington. Okay.

Ms. McAfee. -- many Presidents have released many years of tax returns.

Mr. Arrington. My understanding is we asked for an unprecedented amount of information, detailed, at the subsidiary level, and this is information that has not been divulged by other Presidents.

So, to suggest that we are doing -- we are just merely getting information that other Presidents have divulged is erroneous. It is false.

So I would suggest that your problem with credibility, with whatever this report says and suggests, that you think we need to and that my Democrat colleagues think we need to reveal and disclose private taxpayer information, I think the bigger credibility issue is we are talking about one President who we have asked for information that no other President has divulged. I think we got serious credibility issues, and it is not the ones that you guys have suggested.

One of my colleagues mentioned the timeframe and the time constraints. We have been talking about this for 2 years. That was our first hearing.

How many hearings have we had on this? How many member meetings have we had on this to discuss what we might do going forward to fix the problem?

Ms. McAfee. There was one hearing in the Subcommittee on Oversight in February of 2019 that discussed the presidential audit program.

Mr. Arrington. Mr. Chairman, I yield back.

But I would suggest that over 2 years since that time, no activity, and now we are rushing to put information of a former President and a taxpaying citizen of this country public. Seems reckless and irresponsible to me.

Thanks for the indulgence.

Chairman Neal. Thanks to the gentleman.

Let me recognize the gentlelady from the Virgin Islands, Ms. Plaskett, to inquire.

Ms. Plaskett. Thank you, Mr. Chairman.

I want to thank the two individuals that are here and have been really very forthcoming in responding to the questions that we all have put forward.

I wanted to ask you, Mr. Barthold, it was your job not to audit the tax returns of the President, was it?

Mr. Barthold. We did not attempt to audit. We did not attempt to validate values.

Ms. Plaskett. It was your job to determine if the mandatory audit process was being applied to the tax returns of the President, the individual we are looking at. Is that correct?

Mr. Barthold. I told the chairman that we would look at the audit process and that we would look at questions that we would think one would want to examine as part

of the audit of a presidential return.

Ms. Plaskett. Thank you.

I had a chance to work for the individual who is the head of the Enron investigation, Larry Thompson. And that was, in fact, an audit of a large entity. And that audit, of course, did take several amount of years, as well as large resources.

Your job was not to do the audit of the taxes but to determine if the audit process utilized by IRS was, in fact, sufficient. And what you found is that it is not.

And you point out, in the little time that you had, not that you had a substantial amount of time, but just in the little time that you had, there were substantial questions with regard to the information that you were able to review that made you determine that, in fact, this audit process, one who with the experience both of you, Ms. McAfee and her team, were able to ascertain without tremendous years of review of them such as the little substantiations, questions of information, et cetera, that you have detailed for us in the report.

Is it the responsibility of the taxpayers to provide and to present material to substantiate the claims that are within their tax returns, either Ms. McAfee or Mr. Barthold?

Mr. Barthold. Ms. Plaskett, yes, we -- I noted that in the report that we provided to the chairman.

Ms. Plaskett. So the fact that information is not present, that the individual taxpayer that you were reviewing was not there, is a fault of his own, not a fault that we would not have given him.

Mr. Barthold. To be clear on this point, the taxpayer has to have books and records. So as a simple example, if you claim charitable deductions, you have to be able to substantiate those deductions, but you do not always have to submit the

substantiation as part of the return. So it would not necessarily be part of the file.

The question with respect to charitable deductions that was raised in the report --

Ms. Plaskett. Unless it is requested, correct?

Mr. Barthold. It was -- it would be an IDR, an Information Document Request by the IRS to the taxpayer to substantiate that as part of the audit.

Ms. Plaskett. And in this Mandatory Audit Program has functioned as intended, when the taxpayer's history as complex as President Trump's, it does not appear that the IRM provisions concerning the mandatory presidential audit are sufficiently robust for a President who has an inordinately large and complex return, controlled hundreds of businesses of entities, raises issues of financial conflicts of interest, takes aggressive tax positions to minimize his liabilities, is under continuous audits from the IRS, has refunds under review, and openly attacks the IRS and the very IRS employees conducting the mandatory audit, to be clear. And that is public record.

Therefore, I must say, Mr. Chairman, I am not one who believes in releasing individuals' personal taxes. And you know in discussions with me, in our discussions as committee members, that it has not been my position to release the taxes of individuals. I think that the precedent it sets is a difficult one. I think retroact -- prospectively would be a better mechanism.

However, I have been persuaded by my colleagues. And to use words given just from my colleague to the right of me, that the evidence -- Mr. Horsford -- that the evidence to support the legislation is, in fact, necessary to have the confidence of the American people and what it is that we are doing.

So, therefore, I want to thank you once again for the work that you are doing.

And I yield back.

Chairman Neal. I thank the gentlelady.

Let me recognize the gentleman from Georgia, Dr. Ferguson.

Mr. Ferguson. Thank you, Mr. Chairman.

Mr. Barthold, as you well know, in June of 2021, Chairman Neal wrote a letter to the IRS with a series of detailed questions. It seems that this letter was magically found on December the 16th. It seems like everybody forgot about this, but the response back from the IRS was found.

My question is: How did JCT complete the entire analysis of this audit process without the IRS' December 15 letter?

Mr. Barthold. My colleagues and I prepared a report on the 15th which predates the knowledge of the existence of this letter. So our report was based on the material that we had before us prior to that time. We first looked at materials made available on November 30 --

Mr. Ferguson. So, Mr. Barthold, excuse me one second.

Mr. Barthold. Sure.

Mr. Ferguson. When did you actually receive the letter?

Mr. Barthold. I have heard of the letter to which you refer, Dr. Ferguson. I have not seen that letter.

Mr. Ferguson. So, Ms. McAfee, if he has not seen the letter but a letter is there, why wouldn't JCT be given an opportunity to update the report after the December 15 letter was found? And the reason --

Mr. Barthold. Well, Mr. Ferguson, I think I can answer. I mean, on the 15th, I gave the report to the chairman.

Mr. Ferguson. But wouldn't it -- in being thorough, the IRS responded. That information would have been relevant to you. It seems like it would be complete because, look, on page 35 you say you base your evidence of the IRS audit. It does not

appear that any of the 2020 Federal income tax returns have been risk or selected for examination by the IRS.

The December 15 letter, it says this return is not yet under examination. It indicates that the 2020 return will be subject to examination as it makes its way through IRS processing.

So again, you jump to a conclusion there because it said it was part of the normal process, which brings me to the letter that you all have in section C of your -- of the binder provided by the chairman. And this is dated June 6 of 1977.

And under point one it says: All tax returns for the President and Vice President will receive normal pipeline processing through the service center.

Mr. Barthold, has the normal pipeline processing center since, say, about 2018, 2019, has it been behind in processing returns and doing audits?

Let me answer that.

Mr. Barthold. No, overall, overall --

Mr. Ferguson. Overall.

Mr. Barthold. -- it is because of the pandemic.

Mr. Ferguson. So it is reasonable, if it is, as it is stated through IRS policy, that this is in the normal pipeline and this pipeline is backed way up, isn't that a problem?

Also it says in here that the district responsible for the examination will be determined by the deputy commissioner.

In each of the years that the majority asked for the audit, do you know who the deputy commissioner was? And which district did they assign it to? And have you asked the question, when it was assigned, why has there been a delay in the audit process?

Mr. Barthold. My colleagues and I made no inquiries of any IRS personnel.

Mr. Ferguson. So --

Mr. Barthold. As was stated -- as is stated in the report.

Mr. Ferguson. But in the letter, as this is IRS policy, they say that it will be assigned by the deputy commissioner to a district, original district.

So do we know that that was actually done? Did the deputy commissioner file, you know, request that? And, if so, did that regional office, did they actually do the work? I mean, I think -- or is this thing just so far delayed because the pipeline is so backlogged? I am trying to do this.

And then two other quick things before you answer that.

You know, one of the things -- and my colleague, Mr. Gomez, made a comment about expanding the scope beyond the office of the President. Two of the years that have been requested, 2015, and the tax returns filed in 2020, while there may be some overlap there, those were done while he was a private citizen.

So if we release the entire box here, we are going to be releasing the tax returns of the private citizen. So that is a new precedent. That is a dangerous precedent that has been set.

And, Ms. McAfee, final question for you. Is there any situation where a prosecutor would release evidence or suspected evidence prior to an indictment or a trial? If they do that, wouldn't this possibly taint a jury pool if they are releasing this information?

Because, look, most of us aren't qualified to really look at these tax returns. I can tell you what would happen. It would be a bunch of jurors that are looking at Twitter or some other social media platform, looking at that and making a determination. A jury pool could be tainted if this stuff goes out prior to the audit being completed.

Ms. McAfee. I am not a prosecutor and I have never practiced as a prosecutor,

so I don't know the answer to that question.

But I can answer your question about the 2015 tax return. That tax return, according to the IRS transcripts, was filed in 2017, February 27 of 2017. The IRM states that all income tax returns of Presidents and Vice Presidents shall be subject to a mandatory examination. By their own standards, 2015 should have been subject to the Internal Revenue Manual standard of the mandatory examination.

Mr. Ferguson. And 2020 tax returns --

Chairman Neal. Thank the gentleman.

Thank you.

Mr. Ferguson. Sorry, Mr. Chairman. Yield back.

Chairman Neal. Thank you.

Let me recognize the gentlelady from Alabama, Ms. Sewell, to inquire.

Ms. Sewell. Thank you, Mr. Chairman.

Ms. McAfee, I want to be clear that the committee could not have conducted a hearing on the Mandatory Audit Program prior to the Supreme Court's decision because the audit program is just one individual at a time, right? One -- the Mandatory Audit Program is only for the President that is sitting at the time. Is that right?

Ms. McAfee. So the position of the Internal Revenue Service is that all the actual operations of the program are covered by 6103, because there are so few Presidents that have been in the program that you would be able to identify them by year.

So rather than to have an actual hearing, we tried a briefing on this subject. You would need 6103 authority, and that was what was the subject of the court cases.

Ms. Sewell. So, frankly, the discussion that we are having right now in executive session is the first opportunity that we would really have to examine this Mandatory Audit Program.

Ms. McAfee. With actual information, that is correct.

Ms. Sewell. And isn't that reason why it is important that we really understand the audit program process in the context of an audit, of an actual -- the context of actually having a tax return to review and to decide whether or not this program is as robust as it should be --

Ms. McAfee. That is correct.

Ms. Sewell. -- is by having, by examining a tax return? Is that right?

Ms. McAfee. That is correct.

Ms. Sewell. So, in fact, if we just released the two reports, your report and the Joint Committee on Taxation's report, without having the context of actually seeing how the IRS' program was so dormant and not robust enough, to go back to some of the things that the Joint Committee on Taxation unveiled, for example, that charitable contributions without substantiated documentation and without -- or claiming of foreign tax credit without understanding whether or not taxes were paid, you can't really understand the context of a mandatory audit report and the process without really reviewing it with a tax return in mind.

Ms. McAfee. That is correct.

Ms. Sewell. Okay. And so the conclusions, after reviewing the mandatory tax audit, I just want to put for the record what your findings were.

So on page 23, you said that under prior administrations there was a negligible difference between a regular audit and a mandatory audit of the President. Is that right?

Ms. McAfee. That is correct. There was no change in scope really.

Ms. Sewell. And so the Mandatory Audit Program in the manual does not advance tax compliance or public accountability because it was not robust enough. Is

that right?

Ms. McAfee. That is correct. It is very simple, one sentence.

Ms. Sewell. One sentence. Right.

And so we established earlier that the President is not just an ordinary private taxpayer. I would think that the President of the United States, given the fact that he has such wide latitude and scope to veto bills, to really affect his own personal finances, that he is in a different category. Is that right?

Ms. McAfee. That is correct.

Ms. Sewell. Okay. And so because he is in a different category and because prior Presidents have released -- candidates, when they were in their own private -- as private citizens, not as President of the United States, revealed -- those who are running for President reveal their taxes, that the fact that this particular President didn't do so did raise eyebrows, did it not?

Ms. McAfee. It did for some, yes.

Ms. Sewell. Yeah. And so the whole idea of having a Mandatory Audit Program for Presidents and Vice Presidents is because there is a heightened level of scrutiny that we think that they should have and the fact that the current program is not robust is a problem.

And, therefore, the solution, the finding that you made, was that it is not robust, that it is sort of regular audit. It is not, like -- you know, it is not detailed enough. It is not -- the process is not being followed.

Your recommendation, therefore, is that we codify it, that we actually make this program a real program where the tax returns of Presidents and Vice Presidents are truly audited and we give the amount of resources and the amount of manpower to actual do an audit of those tax returns. Is that --

Ms. McAfee. That is correct.

Ms. Sewell. Okay. And so that was the first finding that you made.

Now, the second finding that you made was that the manual does not provide the necessary details and guidance for the operation of any Mandatory Audit Program. Is that correct?

Ms. McAfee. That is correct.

Ms. Sewell. And the evidence that you showed for that finding and the recommendation that flowed from that was what? Can you tell us?

Ms. McAfee. That they revise the manual and update it and put the program in there. And we really would like it just to be updated to reflect what it is they are doing and where it should be, determine the scope and add timing hopefully. But that would be a decision of the Internal Revenue Service.

Ms. Sewell. Right. And then the last finding that you made was that the IRS should have adequate and appropriate staffing and resources necessary to make a full and timely audit of the President and the Vice President's audit returns. Is that right?

Ms. McAfee. That is correct.

Ms. Sewell. So that all of that lends itself to say that the current program is insufficient and we as a body that can codify and make this a more robust program should do so, because at the end of the day it is about the trust of the American people on whether or not the person who is the President is actually not overreaching his authority and therefore personally benefiting financially from lack of a robust audit.

Is that the sum and total of it all?

Ms. McAfee. That is correct, yes.

Chairman Neal. I thank the gentlelady.

Ms. Sewell. Okay. In conclusion, I just want to say that it seems to me,

Mr. Chairman, that our task was to not to go digging, to just summarily go digging, but rather to see whether or not a program, a mandatory program, was actually being followed.

And to the extent that it is not being followed, I would think that my Republican colleagues, who often tell us of the badness of the IRS, would want us to together work to make sure that they have the resources and adequate staffing to be able to assure that the President, who is not above reproach, not above the law, actually does file legitimate taxes.

Chairman Neal. I thank the gentlelady.

Let me recognize the gentleman from Kansas, Mr. Estes, to inquire.

Mr. Estes. Thank you, Mr. Chairman.

Just a couple things here, make sure that we are talking apples and oranges and keeping things separate, is we are talking about the mandatory audit process. We are not talking about the voluntary process of release, a President releasing their tax returns, right?

Ms. McAfee. Yes. The investigation was on the Mandatory Audit Program.

Mr. Estes. Okay. Good.

And just to make a comment before I get into my questions is, going back to my friend Ms. Sewell, talking about the mandatory audit, is we have had plenty of times. We could have had hearings about the mandatory audit. We could have brought in the IRS Commissioner. We could have brought in IRS agents. We could have brought in information from prior Presidents who had gone through the mandatory audit process. We would have had their audit materials while we were waiting for this court ruling to go through.

Wouldn't that have been possible over the last 4 years?

Ms. McAfee. No, because the entire program is covered by 6103. So the IRS wouldn't provide any information on any current or former President or any information on the actual operations of the program, because their position is that anything that they tell you about the actual operation of the program, you could tie it back to a particular taxpayer because there is only one President at a time. So if they were to provide --

Mr. Estes. Isn't that what we are doing today?

Ms. McAfee. Today we are in executive session, but yes.

Mr. Estes. So, yeah, so we could have done an executive session hearing and had this exact same conversation and actually started that process and not waited till now.

Okay. Moving on. My real question I really wanted to talk about is, did the committee majority staff communicate with communicate with individuals or groups outside of Congress about the tax returns, about what information, what to look for, what to seek out as we go through that? And if so, who were these groups?

Ms. McAfee. No, we consulted with Joint Tax.

Mr. Estes. And nobody else? Because I know there is a lot of information out there. ProPublica has gotten ahold of some confidential information, the New York Attorney General's office, and various media outlets and --

Ms. McAfee. I did not consult with anyone other than Joint Tax.

Mr. Estes. All right. Thank you.

Mr. Barthold, do you know roughly how many audits the IRS does in a given year, roughly?

Mr. Barthold. Off the top of my head, I do not, sir. I would have to find that out for you.

Mr. Estes. It is in the hundreds of thousands or millions, I mean, somewhere in

that ballpark?

Mr. Barthold. It has been declining over recent years, sir.

Mr. Estes. Right.

Mr. Barthold. Substantially.

Mr. Estes. And based on the work that you have done over the years, aren't they very -- aren't they determined or doesn't it appear that they are very successful in the work that they do through that process?

Mr. Barthold. They select -- at the individual level, they select returns based on risk from research that is done. And so they do generally try to do a careful job.

I think there are concerns that have been expressed by members on the committee. And that sometimes I think some of my colleagues share the concern that in some large, complicated arrangements, particularly large corporations, that often the IRS might be outgunned and so not doing maybe as good a job as they could.

And the committee and the Congress have recognized the difficulties in the pass-through area of complex partnership arrangements by changing the audit structure for partnerships. This was revised by Congress in the PATH Act a few years ago to try to enable the IRS to do a better job of auditing large partnerships. So maybe some mixed bag but --

Mr. Estes. That is good that we can do, I mean, legislation and help with that, I mean. But none of those are publicly released tax returns that help them do a better job. I mean, that is really the point I wanted to get through that in that process.

Mr. Barthold. You are correct, sir, that in the process of all audits, taxpayer information is protected under Code Section 6103.

Mr. Estes. Thank you.

And, Mr. Chairman, I yield back.

Chairman Neal. I thank the gentleman.

Let me also reassure the gentleman, because he did mention ProPublica, the New York Attorney General, and perhaps even the Manhattan District Attorney.

As I said at the outset, under oath I would be prepared to say no information was ever leaked from me or my staff on this. And I made sure even avoiding inadvertent comments in the hallway, emotional statements, I stayed away from it, understanding the gravity of where we were headed with this. I wanted to assure the gentleman.

Mr. Estes. Mr. Chairman, everything I heard, you did exactly that, as what was reported.

I was asking the other question of whether we got information from outside through that.

Chairman Neal. Sure.

The gentleman from Pennsylvania, Mr. Smucker, is recognized.

Mr. Smucker. Thank you, Mr. Chairman.

Ms. McAfee, 6103, obviously, is what this hearing is about. And I understand it has to do with the mandatory audit of the President. It also has taxpayer privacy provisions, correct?

[5:00 p.m.]

Ms. McAfee. 6103 protects taxpayer information and requires it to be kept confidential. That is correct.

Mr. Smucker. By everyone? Kept confidential by everyone?

Ms. McAfee. Yes. Unless there is an exception, correct.

Mr. Smucker. There are significant penalties for violating it?

Ms. McAfee. Unless there is an exception, that is correct.

Mr. Smucker. The taxpayer privacy aspects of 6103, are there special rules for Presidents or former Presidents?

Ms. McAfee. There are not special rules. There are special exceptions for committees of Congress and others.

Mr. Smucker. So there are no special rules for a President or Vice President in regards to the privacy of their tax returns?

Ms. McAfee. They would be covered under the general rule of 6103(a), which is the protection of confidential tax information unless an exception applies.

Mr. Smucker. And so it equally applies to all taxpayers, including the President or former President is your answer?

Ms. McAfee. That is correct. Unless an exception applies, correct.

Mr. Smucker. And has the Ways and Means Committee ever, in the past, made public -- and I understand that the debate here today and the discussion we should potentially have about the mandatory audit process, but we are going to have a vote at the end of this about making public the individual tax returns of an individual.

Has that ever -- has the individual tax returns, full tax returns of an individual ever been made public before by the Ways and Means Committee?

Ms. McAfee. I have only been with the committee since 2007, and no individual returns have been made public during that time.

Mr. Smucker. No individual, that has never happened since --

Ms. McAfee. Since 2007.

Mr. Smucker. It has never happened since 6103.

So, if we choose to do that at the end of this hearing, that would be the first time.

Would that not be a precedent?

Ms. McAfee. I am sure that it would be a precedent of some sort, yes.

Mr. Smucker. Mr. Gomez and others have made the argument earlier that it would not be a precedent. I just want to be clear that it would be.

What would be our reason for doing that?

Ms. McAfee. Our reason, the report, as you see in front of you, contains all the supporting information for the committee to make a decision as to whether or not --

Mr. Smucker. Why would we be making individual taxpayer returns fully accessible and available to the public?

And whatever the reason is today, what would prevent a future Ways and Means Committee to establish another reason or come up with another reason to allow for the publication of an individual tax return?

Ms. McAfee. That is within the discretion of the committee, and that would be whatever the future committee decides.

Mr. Smucker. So, you do agree this is a precedent, and my argument is this is a dangerous precedent. And it is one thing for members of the committee to see tax returns. It is quite another to publish, against the intent of 6103, an individual's tax returns.

It has nothing to do with Presidents voluntarily disclosing their returns. That is

up to them, but they are not required -- they are not required to do that.

Mr. Barthold, you highlighted a few potential problems in the Trump tax returns, and you believe they should be resolved through an audit?

Mr. Barthold. In the report that you have before you, we identified --

Mr. Smucker. You identified some questions. Do you think --

Mr. Barthold. We identified areas where one would want to ask questions.

Mr. Smucker. Do you think making the tax returns public to the American public, making them available to the American public will help to address any of the potential concerns that you have with the returns?

Mr. Barthold. Well, Mr. Smucker, my opinion is not relevant here. I think you have made the case very well to --

Mr. Smucker. Do you think it would help to determine whether there were problems with the returns by making them available to the public?

Mr. Barthold. What we suggest --

Mr. Smucker. The answer is clearly no. So why do you think -- what reason do you think there would be? Each of us will need to have a decision to make at the end of this hearing. Why should I vote to make the returns available to the public, when it is clearly in violation of 6103, when we can have a discussion about the mandatory audit process without doing that. What would be the reason?

Do you think it is political, Mr. Barthold?

Mr. Barthold. That is the debate before you for the members. I fully understand your --

Mr. Smucker. I have been listening very carefully. I cannot think of any reason, I have not heard any reason to do this other than for political reasons. Thank you.

Mr. Blumenauer. Mr. Chairman, point of order.

Chairman Neal. Mr. Blumenauer is recognized for a point of order.

Mr. Blumenauer. Can we have members not try to engage our expert witnesses in their political opinions, but rather, question them in terms of their technical proficiency.

Chairman Neal. The point of order is well-taken. The witnesses are not here to offer their own opinions, and I think the two of them are pretty seasoned and understand that.

Let me recognize the gentleman from Illinois, Mr. Schneider.

Mr. Schneider. Thank you, Mr. Chairman.

And to both Ms. McAfee and Mr. Barthold, thanks for your presence here today and sharing your thoughts.

And the report from the chairman, so this is not the language with respect to what Mr. Blumenauer just said, but I think it is an important point.

And reading it here: "Auditing the income taxes of the President of the U.S. is unlike auditing the income taxes of any other American. No one else has the power to sign bills into law, bills that could affect the President's personal financial situation, nor do they have the power to personally direct every department, agency, bureau, or office," and so on.

And I think that is why we are here and talking about this proposed legislation, because there is something distinctly unique about the role the President has, the position the President has, and the need of the American people to understand that our tax laws apply to that President just like every one of us, that there is no difference there.

I ask my question: You know, previous Presidents had released their taxes so the public could make their decisions. Because the former President had not released his taxes, is it fair to say that the mandatory audit or examination process becomes more

important, not to see his taxes, but to have confidence once the audit is complete, that he is following the law?

Ms. McAfee. That is correct.

Mr. Schneider. And for that reason, it was more important I think for us in this committee to have confidence that the process was in place and working. Is that a fair statement?

Ms. McAfee. That is correct.

Mr. Schneider. And can you tell me why we request, or the committee requested, the chairman requested the 5 years 2015 to 2019 -- or 2020?

Ms. McAfee. The chairman's request is based on the years that the chairman believed would be in the Mandatory Audit Program, and then one year before, and one year after. The one year before actually turned out to be filed in 2017. So that actually ended up being filed while he was President, so that would have been in the program.

Mr. Schneider. Otherwise, it would not have been included.

Ms. McAfee. But, otherwise, it would not have been. And then 2020, we did ask when we were there whether 2020 was in the Mandatory Audit Program. And the IRS couldn't tell us. They were unclear whether it was in or out of the Mandatory Audit Program.

Mr. Schneider. But, again, just to emphasize, the request for these specific years was because it was these years that we needed to know that the process was in place and working, because there wasn't public awareness of the taxes from being released.

Ms. McAfee. Correct.

Mr. Schneider. Mr. Barthold, let me turn to you, because there has been a lot of talk about the time available. How long did it take you or your team to assess that, of

the years submitted, only one year had a mandatory exam initiated when the former President was in office?

Mr. Barthold. That was from a review of the audit file notes. So that did not take very long to ascertain.

Mr. Schneider. It was a quick obvious observation, I would imagine. I am just referencing to other cases.

And to recognize how many years should be covered under the mandatory examination, I assume that was just check and confirm, correct?

Mr. Barthold. What we reported from the audit files and what was noted as under mandatory examination was just following the documents that the chairman had made available to us through the request that he had made. So there was no special --

Mr. Schneider. And I am just following the report here of the observations. The observation that there was comparatively sparse or surprisingly sparse volume of tax returns and audit files, that was prima facie apparent. That didn't require an analysis, I assume?

Mr. Barthold. No, it did not, sir.

Mr. Schneider. Okay. And the awareness of the lack of cooperation or, in fact, confrontation with the taxpayer and the efforts of the examiners, that was immediately documented, correct?

Mr. Barthold. That was paraphrasing from notes in the audit file. That was not an independent observation that we made. We were just reporting on the audit process at that point, sir.

Mr. Schneider. And the idea of a return that involved 400 flow-through returns, many multiple levels, so ultimately more than 500 flow-through returns, needing expertise beyond what was allocated, was that a relatively quick observation?

Mr. Barthold. Well, that was our judgment, given the number and multiple tiers of pass-through entities.

Mr. Schneider. So is it fair to say that the time available to look at the data provided was sufficient to draw the conclusions presented in this report?

Mr. Barthold. As I related before, we have -- we stated what we stated based on the amount of time that we had. We tried to do the best job available in the time that we had.

In answer to Mr. Brady's question, he knows from his history that I would always like to have more time and double-check, or, perhaps, look for, but I think we presented good information, given the limited amount of information that was available to us and the time we had to work.

Mr. Schneider. Thank you. My time is expired.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Ohio, Dr. Wenstrup, to inquire.

Mr. Wenstrup. The claim is made that there is a legitimate legislative purpose for requesting Section 6103 material and for making the material public. Democrats have told the courts that they did.

Let's set the record straight. Democrats have always wanted to make this material public. If you don't believe me, maybe listen to some of their own words. And looking back here, a few key quotes from members of this committee on the issue.

In February 2017, Representative Pascrell said in a letter: "We believe that it is imperative for the public to know and understand his 564 financial positions in domestic and foreign companies and his self-reported net worth." Nothing to do with the audit process.

Again, in February 2017, Rep Pascrell said: "Let's shine a bright light on the

President's conflicts together as a Congress, and the broader American public can judge whether his decisions are being made for himself, his business interests, or for the greater good of the American people." Nothing to do with the audit process.

In March 2017, Representative Pascrell said: "It is going to be embarrassing when those tax returns come out. They're coming out sooner or later. They're coming out sooner or later." Nothing to do with the audit process.

March 2017, Chairman Neal said the following: "If ever there was a President with respect to which this committee should exercise its Section 6103 statutory authority to obtain individual tax returns, President Trump is the one. President Trump is the one. Hence, committee Democrats remain steadfast in our pursuit to have this individual's tax returns disclosed to the public." Nothing to do with the audit process.

In October, also in October 2018, Nancy Pelosi told the Chronicle's Editorial Board in an interview to expect Democrats to immediately try to force President Trump to release his tax returns if they take back the House in November. She went on to say that demanding the President's tax returns is one of the first things we would do. That is the easiest thing in the world. That is nothing.

From the beginning, not one concern with the presidential audit process. From the beginning, these taxes were desired to be made public, and today's effort proves it. I think people are going to regret this.

You know, releasing a personal tax return on anyone lends no credence or benefit to the oversight of the audit process, presidential or otherwise. If you honestly believe that it does, if honestly you do believe that it makes a difference, then your lawsuit would have and should have included all former Presidents, or at least those living former Presidents.

And, frankly, Presidents publicly releasing their own tax returns has nothing to do

with the audit process itself, nothing. And that is what this is supposed to be about.

We don't know. We don't know if former Presidents or any other President, if they were audited or audited appropriately. It has nothing to do with what we are talking about today, but it should. And nor are we going to find out with this process today.

So, my question is, is there anything in this process that we are undertaking that really, really gives us some information about -- let me rephrase it.

Is there anything about releasing these taxes in its entirety -- and I am concerned that the IRS doesn't have the personnel to redact information. Are they out of pens? Are they out of people? That is a concern too.

So, releasing this and having it here unredacted, how in the world does that educate us on the process that has been in place for years by only looking maybe at one tax return and maybe investigating one potential audit?

Ms. McAfee. So, the information that you have available to you is for the committee members to look through and to digest. The reason that it is only one taxpayer at the moment is because that is what was in the June 2021 request.

Mr. Wenstrup. That is my point. I knew that was going to be your answer.

My question to my colleagues, then, is: Really, are you serious? And why is this the only one you sought? If you are concerned about the process, you should want to see how the process has been carried out for decades. And there is no such interest. And you listened to the comments the people made, and nothing was said about the audit process, nothing, just we are going to get those taxes and we are going to get them out.

Let's not kid ourselves here, people. We are all serious people. We are all people of action. We know what is going on.

Thank you for answering my questions.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from New York, Mr. Suozzi, to inquire.

Mr. Suozzi. Ms. McAfee, Mr. Barthold, thank you so much for your expert work that you have done here. I think that all of my colleagues on both sides of the aisle agree that the President is not above the law, and every President has to pay their taxes.

You agree with that, every President has to follow the law?

Mr. Barthold. I believe all citizens should, sir.

Mr. Suozzi. And this rule that was put in place in 1977 was put in place because there were concerns about President Nixon's taxes and whether he had paid his taxes properly. In fact, he had to pay a refund of 400-some, a payment of about \$400,000.

And this law was put in place to make sure that the IRS would act without fear or favor and every single President and Vice President, without any discretion, would have to be audited. Is that correct?

Mr. Barthold. That was the purpose in the revision to the Internal Revenue Manual, sir.

Mr. Suozzi. And what year was that done?

Mr. Barthold. As you stated, 1977.

Mr. Suozzi. So President Ford came to office, President Carter, President Reagan, President Bush, President Clinton, President Bush again and President Obama. And this issue really never came up under Democratic administrations, Republican administrations. It never came up. Why do you think it never came up before?

Mr. Barthold. I would not know, Mr. Suozzi.

Mr. Suozzi. Could it be because of the fact that Presidents had released their tax returns that there was a chance for the public to look at the tax returns. There were

audits done by everybody, including, we hoped, the IRS, pursuant to their regulations.

Is that a legitimate hypothesis?

Mr. Barthold. Certainly, the public could look at the material that the individuals made available.

Mr. Suozzi. So now we have a situation where we are concerned, Hey, the President won't release his taxes. Why won't he release his taxes? Oh, don't worry, we have got the IRS. The IRS has a regulation that says they are going to audit him. They are going to audit the President, so we are okay. So then we try to find out did the IRS do their job? Did they do their audit as they were supposed to?

Now, your analysis, which people have talked about is very cursory at only 11 days, revealed that clearly they didn't do their job. They didn't do what was pursuant to their own regulations. They didn't follow the mandatory procedure to audit the President and the Vice President -- or the President I should say. Is that correct?

Mr. Barthold. In fairness, we should restate that there are examinations under way and they are not complete. There are questions that we pointed out in our report and that I know Ms. McAfee has highlighted repeatedly about the timing, and we raised questions about the scope, but there are examinations underway.

Mr. Suozzi. As you stated earlier, you are concerned about the scope. You are concerned about the amount of resources that were put forward. There are certain questions that weren't asked. There was a reduced amount of audit that was done over the years that went ahead. And I am very concerned about the timeliness, which is something pursuant to the legislation that is being proposed as well, because timeliness is, also, a very big concern.

So I think that everybody here, Democrats and Republicans all agree the President has got to follow the law. Mandatory audit is a good idea. It is obvious from your

reports that they did not follow the requirement to do a mandatory audit here.

So we are saying, Hey, you have got to do a mandatory audit. We think we should put a law in place. I think everybody probably would agree with that, Democrats and Republicans.

The question is, why do we think that the tax returns and your report should be issued? So if we were to issue your reports -- do you think it is a good idea that your reports are issued to the public?

Mr. Barthold. Well, that is what you are to debate, sir, not for me to decide.

Chairman Neal. That is a technical question.

Mr. Suozzi. So if these reports were to be released, if we were to say there has been an analysis -- let's put it this way: If we were to say, Oh, our analysis shows that these audits were not done, and we are concerned that these audits were not done, but we didn't issue the reports, wouldn't there be a question of how you came to your conclusion?

So, therefore, this committee is going to argue that we should issue the reports, based upon the conclusion you have given to us, so that we can show the public that, in fact, there is a basis for which we are saying that these audits were not done pursuant to the regulations of the IRS.

If we were to issue the reports, but not issue the backup material of the actual returns, then people would say, oh, you just picked and chose information from the returns and you didn't include all the information. Therefore, I would argue that you have to include the information of the returns as well to back up the reports.

I am going to yield back, Mr. Chairman.

Chairman Neal. I thank the gentleman.

The gentleman from Tennessee, Mr. Kustoff, is recognized to inquire.

Mr. Kustoff. Thank you, Mr. Chairman.

Mr. Barthold, prior to you preparing the report in your testimony today, you were familiar with the Mandatory Audit Program?

Mr. Barthold. Yes, sir.

Mr. Kustoff. In preparation for your report or your testimony, have you had anyone at the IRS, or any other subject matter expert tell you that publicizing the returns of President Trump would somehow improve the Mandatory Audit Program?

Mr. Barthold. I have had no communication with the IRS regarding the returns that were made -- the return information that was made available to the chairman and the committee.

Mr. Kustoff. Either prior to the preparation or --, have you ever had anyone, a subject matter expert relay to you that releasing publicly if, in fact, we take a vote later today to make these documents public, that that would somehow improve the Mandatory Audit Program?

Mr. Barthold. Again, I have not consulted subject matter experts on the motions that are potentially to be put before the committee.

Mr. Kustoff. Based on what you know, if this committee takes a vote to make those documents public and the vote is affirmative, can you see any way or any benefit of doing that that then improves the Mandatory Audit Program?

Mr. Barthold. Again, Mr. Kustoff, I have to demur on that. That really seems to be the policy judgment that is being laid before the committee.

Mr. Kustoff. Fair enough. Thank you, Mr. Barthold.

Ms. McAfee, in preparation for your report and your testimony today, have you had anyone at the IRS or any subject matter expert relay to you that releasing these documents would somehow improve the Mandatory Audit Program?

Ms. McAfee. I have not.

Mr. Kustoff. And the question that Mrs. Miller engaged with you regarding the IRS sending you the returns without redactions, I think it was your testimony that the IRS didn't have the manpower to do those redactions. Is that right?

Ms. McAfee. The IRS told me that they did not have the ability to do the redactions, because they only have a limited number of personnel that are authorized to deal with these returns, and so, therefore, they would have to do the redactions manually and that would take them quite a bit of time.

Mr. Kustoff. Fair enough. Do you have the staff to adequately prepare redactions if, in fact, there is an affirmative vote by this committee to release these documents?

Ms. McAfee. I do, but it would not be quickly.

Mr. Kustoff. Let me, if I can, drill down a little bit deeper. The redactions would only be done by members of your staff, correct?

Ms. McAfee. That is correct. The designated agents that are already agents, just like you are.

Mr. Kustoff. Don't give me names, but approximately how many people would you have available to do those redactions?

Ms. McAfee. Well, everyone in this room is a designated agent. So, I mean, I think we can kind of look around and count.

Mr. Kustoff. You have got the Christmas holidays coming up. January 3rd Congress changes hands, the House of Representatives changes hands. Do you have the ability to do those redactions prior to January 3rd?

Ms. McAfee. If that is the decision of the committee, I will do what the committee has directed to do.

Mr. Kustoff. Now, you are a lawyer. I am a lawyer. You know what to look for in terms of what sensitive information to redact. I assume that the other staff members, some may be lawyers, some may not be lawyers, right?

Ms. McAfee. My staff generally is all lawyers, but yes, there could be other people that are not lawyers.

Mr. Kustoff. You may have nonlawyers assisting you in the redaction.

Ms. McAfee. I may. But it is getting close to Christmas, so it may just be me.

Mr. Kustoff. And if it is just you, do you think you have got the ability to complete these redactions prior to January 3rd?

Ms. McAfee. I will do what the committee directs me to do.

Mr. Kustoff. In terms of the redactions -- and Mrs. Miller asked you about minor information, Social Security numbers, bank accounts. What are other areas in the returns or in the documents that would need to be redacted?

Ms. McAfee. I would submit to the committee that the PIN number that shows on the front of the return, which is your personal identifying number when you file, that that would need to be redacted from the returns.

Mr. Kustoff. Thank you. My time is expired. I yield back.

Chairman Neal. I thank the gentleman.

The gentleman from Missouri, Mr. Smith, is recognized to inquire.

Mr. Smith of Missouri. Thank you, Mr. Chairman. Merry Christmas, Mr. Chairman. Merry Christmas to Ms. McAfee and Mr. Barthold. Way to spend the holidays.

This executive session, and this report, Ms. McAfee, is solely to look at the Mandatory Audit Program, correct?

Ms. McAfee. That is correct.

Mr. Smith of Missouri. And looking at the Mandatory Audit Program, did we request any information on President Biden in regards to whether they have done anything with the Mandatory Audit Program?

Ms. McAfee. No, that was not a part of the June 2021 letter from the chairman.

Mr. Smith of Missouri. So, the chairman did not request any information on the Mandatory Audit Program for President Biden?

Ms. McAfee. There was no 6103 letter for President Biden.

Mr. Smith of Missouri. So, could you tell me if there was any Mandatory Audit Program information requested on President Obama?

Ms. McAfee. The only letter that I have is the June 2021 letter from the chairman.

Mr. Smith of Missouri. So only on President Trump?

Ms. McAfee. That is the only letter that I had on which we were doing our investigation, correct.

Mr. Smith of Missouri. So, this hearing today is to discuss the entirety of the Mandatory Audit Program only looking at President Trump's request by the chairman. Is that correct?

Ms. McAfee. Today, we are looking at the Mandatory Audit Program under the prior administration, and it is based on the chairman's June 2021 request.

Mr. Smith of Missouri. So, the Mandatory Audit Program of how it is efficient or how well it works is only being analyzed under a Republican presidency that numerous folks in this Chamber have been searching for his tax returns.

Ms. McAfee. I don't know what other people are doing. I work for the chairman, and so, I was looking at the chairman's June 2021 letter.

Mr. Smith of Missouri. So is it true that in April of 2019, Chairman Neal made a

formal request for President Trump's tax returns, based on the authority described in 26 U.S.C. 6103?

Ms. McAfee. That is correct.

Mr. Smith of Missouri. Did he make the request for President Biden's tax returns in April of 2019 as well?

Ms. McAfee. The only letter that I saw was the April 3rd letter that you cited.

Mr. Smith of Missouri. So it was only President Trump, once again?

Ms. McAfee. Yes, that is the only 6103 letter that I have.

Mr. Smith of Missouri. Can you also tell me, in access, when did anyone under Chairman Richie Neal's guidance get to receive an opportunity to view the tax returns?

Ms. McAfee. The Supreme Court case came down on November 22nd, and on November 23rd there was a review.

Mr. Smith of Missouri. Of?

Ms. McAfee. Of what tax forms were available at 1111 Constitution.

Mr. Smith of Missouri. And who got to review those on the 23rd?

Ms. McAfee. It was the designated agents.

Mr. Smith of Missouri. And who were the designated agents?

Ms. McAfee. That is a question for the chairman.

Mr. Smith of Missouri. Were there any Republicans that were included as designated agents on 11/23, Mr. Chairman?

Chairman Neal. When Mr. Brady made the request of me, I am not sure what the date was. I thought about it for a day --

Mr. Smith of Missouri. 11/23.

Chairman Neal. -- and said yes. And you should know part of that was based upon how I know Kevin Brady.

Mr. Smith of Missouri. And we got access --

Chairman Neal. There was a question about whether or not to do it. And I said, I know Kevin Brady, we should do it.

Mr. Smith of Missouri. So when did Republicans get access to those tax returns?

Chairman Neal. Karen.

Ms. McAfee. The Republicans were granted access on December 11th.

Mr. Smith of Missouri. December 11th, but the chairman's designees got it on 11/23, and the Ranking Member Brady's request on 11/23?

Chairman Neal. I am not sure when Mr. Brady made that request.

Mr. Brady. Shortly afterwards.

Ms. McAfee. 11/30.

Mr. Smith of Missouri. 11/30 is what I am being told.

I think that is interesting. Let's call a spade a spade. And this is for my colleagues. We know you want Trump's tax returns. You are covering it for the Mandatory Audit Program, that is what you are doing.

You are setting a new precedent in this committee. You are making that choice. You are making that choice today. If this is truly a committee that doesn't use political vendettas against individuals, let's prove it today, but you have the opportunity to prove it.

I yield back.

Chairman Neal. I thank the gentleman. You should know, Mr. Smith, that I want Joe Biden, as is the case with former President Trump, to abide by the same rules and regulations. And we are going to ensure it with the legislation that we are about to pass. Joe Biden has, in fact, released his tax forms.

I entirely agree with the gentleman's point. Joe Biden should be included in the

mandatory program, and if that legislation passes, those documents should be publicized.

The gentleman from Pennsylvania, Mr. Kelly, is recognized.

Mr. Kelly. Thank you, Mr. Chairman.

First of all, Karen, thank you for being here. Tom, thank you for being here.

You know, I am always amazed when Tom Barthold shows up. On November 21, 2019, the Tax Foundation will honor Thomas Barthold, chief of staff of the Joint Committee on Taxation, with the Distinguished Service Award at the 82nd annual dinner.

Now, why is it that I am so impressed with him? Because I got to tell you, Tom, with your resume, what the hell are you doing here? It can only be love of country. That's why I bring it up. It is only love of country.

Everybody sitting on this panel, if you asked President Reagan, what did he say? What would it take to straighten out Washington? People will have to take a huge cut in pay to go and serve, the emphasis on serve.

Tom, I look at all this, and this is incredible to me. Mr. Barthold joined the Joint Committee staff as a staff economist in 1987. He subsequently has served as senior economist, deputy chief of staff, and acting chief of staff. He was named chief of staff in May of 2009. Over the past three decades, he has worked on a wide variety of issues for the committee, including capital gains taxation, savings incentives, environmental and energy taxes, estate and gift taxation, the taxation of multinational enterprises, the low-income housing tax credit, tax-exempt bonds, and tax-exempt organizations, and now the oversight of President Trump's tax returns.

So in all those years you have been here, has anybody ever forced or said, we need to really take a look at these people who come in and serve as the President of the United States, the Vice President, et cetera, but today it is about the President, the former President of the United States? Has that ever happened in your entire career?

I know it hasn't. Just say no, it never happened to you.

Mr. Barthold. It has not during my time here, sir.

Mr. Kelly. Okay. I don't want you to think that you have to come up with a clever answer. These are all yes or no.

I am just fascinated that at this point, with just a few days left in this session, with all the things that are going wrong in our country, we have decided to stop everything and let's just find out what this President did or did not expose for taxation.

I look at all this. I mean, what are we doing this for? What are we coming here today for, and why are we doing this, and what is it that we hope to achieve other than the American people saying, here is one more day, here is one more time, here is one more example of everything in Washington being politicized.

When you wake up in the middle of the night and your nightmare is about a government, your own government coming after you for some unknown reason -- and I can't tell you the number of calls we get at our offices back home of people saying, I got a phone call from the IRS, what should I do? The answer is, hang up, it is not the IRS. When you get a letter, go find a lawyer, because you are going to need one.

The whole purpose of what it is that we do is the faith, the trust, and the confidence the American people have in this institution. And what do we do every time we have an opportunity? Tear it apart. Tear it apart. Make them wonder, are elections fair? Are elections true? Is everybody getting taxed fairly? Is somebody getting a break? If I live in New Jersey, am I being taxed unfairly?

Every single thing we do -- and I got to tell you, this committee of all the committees with the jurisdictions that we have, we are the ones that have to be pure. We are the ones that have to be fixed on the facts. We are the ones that have to be fixed on the process. And whenever we tumble from the inside, when we rot from the

inside out, the American people wonder who is it that is running this country now?

I want to tell you I mean this sincerely, and for you too, Karen. What you all do, get up every day and come here, the service you give the American people and each one of my colleagues. The faith, the trust, and the confidence of the American people is being shaken to the very roots of who they are and who we are.

This is political. This has nothing to do -- this has nothing to do with previous Presidents. It has nothing to do with the current President. It has to do with a guy named Donald Trump. If we can shake him, if we can force him, if we can make him walk through that fire, let's keep doing it. He has been doing it since 2016.

Thank you so much. I yield back.

Chairman Neal. I thank the gentleman.

I am pleased that, Mr. Barthold, you have indicated you have been here since 1987, and I arrived right after that, and I am glad you are not for term limits either.

So, we can wrap this portion up, I recognize the gentleman from Florida, Mr. Buchanan, to inquire.

Mr. Buchanan. Thank you, Mr. Chairman.

Let me just say, in terms of -- I wanted to touch on a couple of things. Let me see. I got my sheets here backwards.

One of the things I wanted to mention that in terms of the IRS, and I think Earl mentioned it earlier, about the President, if the IRS did its job. That has been going on for 6 years. Why they haven't done their job I don't know, but, obviously, that is something we should have that information, have that information here today.

Also, I just want to make a note that -- and I have been audited, like a lot of other people. There is a process with the IRS. And that starts out, whether you get a phone call or you get a notice, you meet with them. You go through some of the issues. You

probably have your CPA or maybe you do it yourself, depending on the circumstances. Usually, 90 percent, it gets negotiated and you move down the road and you are fine. The other percentage, you go to court. And if you don't win -- I have been in that scenario before. We did win. Then they take you to appeals court.

So, it is the same thing. There is a process in place. And, unfortunately, with this whole thing with President Trump -- and I agree with my colleagues. We have been talking about getting his tax returns for 6 years. The IRS had a job to do. Earl mentioned it earlier. They have a job to do, and whether they did it or not -- it doesn't sound like they did it -- it shouldn't run on for that long period of time.

Also, I just want to say in terms of small business and individuals, this has a gigantic impact, because everybody -- I am not talking about someone that has got 100 or 500 employees. I am talking about most of America. They have 10 to 20 employees. I chaired our local Chamber in Sarasota. We had 2,600 member companies, and most of them, I would say 90 percent were 15, 20 employees or less.

If they have to produce their tax returns and stuff and make them public -- it has everything on there, all their information, their revenues, their expenses, everything -- everybody is at risk.

And then when you take a look at some of the larger companies, pass-throughs and everything, other entities, someone said Trump had 400 entities. How is the average American going to be able to figure out, have any sense of looking at a tax return?

I can't make any sense out of my tax returns. They are stacked this high. And you got to sign off, you and your wife. You hope your CPAs and your tax guys are doing the right thing. So, can you go in and find this, that, or whatever? Always. I am sure there is something in there. Mr. Hern has been successful. A lot of different

enterprises, the same type of thing.

So my point is, is that the impact that something like this could have to small businesses primarily, because that is my passion, startups, entrepreneurs, and people in business, and most of them have 20 employees or less, they are going to have everything at risk. And many of them struggle just to make it.

I always tell the story of 100 businesses start up, and the first 5 years, there are only 10 left. So I always, when I think about the IRS and everything else, you know, I think about them in terms of one more thing that they have got to kind of deal with.

So let me just kind of say just quickly, we have got to do -- this is a very, very dangerous precedent, and it is something we have been talking about on this committee for a long time. And I really encourage all my colleagues to really take a look at this seriously.

The impact on this for America and our companies and even Chinese stealing things, because things get too public and online, it is a very dangerous precedent I think going forward. So I would ask my colleagues to vote no on this package. Thank you.

Chairman Neal. I thank the gentleman.

My mistake. I missed the gentlelady from Milwaukee.

Ms. Moore. Thank you so much, Mr. Chairman.

The ranking member and all of the members have really made excellent points today. So I will reframe my remarks so as not to continue to go over things that we have already discussed.

It seems that the soon-to-be majority party is very disappointed, Mr. Barthold and Ms. McAfee, that you were able to go through this material in only 11 days, but I would like to take this moment to congratulate you for doing it and to really ask the question: You were able, Mr. Barthold, to come to some, maybe not conclusions, but observations,

as you called them, and it was not based on going through boxes and boxes of these forms, so much as it was what was not there. Is that correct?

Mr. Barthold. Ms. Moore, I wouldn't say it was what was "not there." It is these are items that you would want to follow up upon and get more "there" there.

Ms. Moore. Like you talked about the substantiation and --

Mr. Barthold. But remember, you don't have to submit substantiation of all items with the return. But if you were doing an exam, you do want to substantiate items that are claimed on the return.

Ms. Moore. Many members have questioned, have romanticized, quite frankly, about the voluntary tax return submittals of past Presidents. And I sure wish that we could have gotten those returns of past Presidents myself, because people were -- you know, the public wants to know that this, so far, man that is in office doesn't have significant conflicts of interest.

And I was just looking through the testimony of a previous hearing that all of us had on February 7, 2019. Comments by Joseph Thorndike, talking about voluntary tax returns disclosure by U.S. Presidents and Vice Presidents, and I would like to submit it for the record.

[\[The information follows:\]](#)

Ms. Moore. They talked about how President Ford didn't release his returns while serving the remainder of Nixon's term. Ronald Reagan was notably reluctant in 1976 and in 1980 to make any sort of comprehensive tax disclosures, and then eventually, he released a single return in August of 1980, after securing the GOP nomination.

George H.W. Bush, who was Vice President under Ronald Reagan, he initially declined to release his tax returns.

The Democratic nominee, the woman for Vice President in 1984, Geraldine Ferraro, was taken down because her husband did not want to release his tax returns.

George W. Bush, his Vice President, Dick Cheney, initially released only portions of their annual tax returns, omitting certain forms, and so on. John Kerry was criticized when his wealthy Heinz Ketchup heir wife didn't want to return her tax returns. And Mitt Romney notably was reluctant to release his tax returns.

So we have romanticized this. So that when we are considering what to do about the Mandatory Audit Program, we can't rely on Presidents, this President or future Presidents, to do that voluntarily. And it is only because of a lot of public pressure that they have done so.

Have I characterized that correctly? You don't know. That is okay.

What I also want to ask you is, Mr. Barthold, you mentioned, among your observations, that you noted that only one IRS agent was assigned to the presidential returns. And there was a period of back-and-forth between this President and that one agent.

Were some of your conclusions that one of the weaknesses of the program was this one agent and the ability for the one agent to not do the work, or to be in cahoots with the administration, or did you see that as a principal weakness?

Mr. Barthold. We were reporting on the audit file notes. It was not a question of the integrity or, really, the skill of the agent, but that with a complex return and complex business arrangements, we thought it would be imperative to draw upon the specialist network within the IRS, that it was a job that just wasn't a one-person job.

Ms. Moore. Thank you, sir.

Thank you for your indulgence, Mr. Chairman.

You know, I just think, going forward, no matter who is in the majority, you know, we ought to look at making this a mandatory, statutory program instead of leaving it to the, you know, will and instincts of the President, who is unlike any other person.

So I would yield back.

Chairman Neal. I thank the gentlelady.

Now, does any member wish to strike the last word?

The gentleman from Nebraska is recognized to strike the last word.

Mr. Smith of Nebraska. Thank you, Mr. Chairman.

I am concerned. I do have one more question, Ms. McAfee. You said the IRS did not have the resources to redact the personal information. Is that accurate?

Ms. McAfee. That is what they told me, that it had to be done manually, and they only have certain personnel that are authorized to deal with the returns.

Mr. Smith of Nebraska. And did they put that in writing?

Ms. McAfee. They did not.

Mr. Smith of Nebraska. They did not.

Ms. McAfee. It was an oral conversation.

Mr. Smith of Nebraska. Okay. Thank you.

Mr. Chairman, there have been issues raised throughout this discussion. I think it has been a healthy discussion. Quite honestly, at the beginning, I knew the IRS had

problems. I am saying they are even worse than I thought.

Now, actually, I think it would require -- our efforts should be more diligent, I think, in terms of prescribing what needs to be done at the IRS, among them presidential audits.

But obviously, we have got a scenario here where, yes, there is the desire to audit the former President. It is well-stated. It is well-documented. It is very clear. And then here is kind of this side argument of here is how we can do it. Here is how we can even get the Supreme Court to go with us. Dangerous, nonetheless. Dangerous, nonetheless, on precedent.

Back to the IRS. I am concerned that back in the nineties, it was known that the IRS was over auditing, if you will, harassing taxpayers, taxpayers that already paid their taxes. They were doing everything they were supposed to do and yet, they were faced with audits. So, they had to go through that long process.

And here we have got audits taking place and we are midcourse, and yet, perhaps -- I hope not -- taking steps to release to the public before the proper audits are even complete, or that we have even addressed in a prescriptive way what the IRS needs to be doing, among that being customer service, since I hear repeatedly from constituents how hard it is for law-abiding individuals, tax-paying Americans just to figure out how much they owe. They want to pay it, but if they have a question, oh, watch out. Set some time aside because it is going to take a long time.

So, the IRS needs work. That is to put it lightly. And I think that taking the action that we are looking at today is inappropriate, it is dangerous. And time will be the judge ultimately, but I still hope that there is a no vote on this, on this motion that we expect, and ultimately say, let's fix things at the IRS. Let's look at legislation in a bipartisan fashion, because this is something that I think we can focus on to bring

America together rather than just jam something in a fully partisan way that I think many will live to regret.

So with that, Mr. Chairman, I yield back.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from New Jersey, Mr. Pascrell, to strike the last word.

Mr. Pascrell. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Neal. The gentleman is recognized.

Mr. Pascrell. Mr. Chairman, there are countless times on the record in the past 6 years that either the chairman, when you were the chairman and are the chairman now, myself, and many others, came forward on the record, written down, and asked the chairman of this committee at that time, Mr. Brady, our good friend, Members of the United States Senate in writing, let's do this together. Let's work together so there is no question about partisanship.

I remember -- I will not mention the name -- one of those people laughing in my face. And when I was growing up in Paterson, New Jersey, where I still live, anybody that ever did that to me, without word, we went to town. And I will tell you what that means if you wish.

I am grateful for the chairman. And we don't agree on everything, as those folks know. You were tireless in not trying to create a more chaotic situation. I am deeply thankful for your hard work and many other people, the staff, members of this committee, who reviewed these tax records with a fine-tooth comb in the time that they had. It was a long road. 1,329 days, the length of the Civil War.

The Supreme Court affirmed the chair's right to conduct a lawful review of Donald Trump's tax returns. And he was so cooperative. I don't understand what everybody

was getting excited about.

I have advocated for reviewing and releasing Mr. Trump's tax returns for 6 years. I never would give up, I said. And I will say the same thing tomorrow. You are not going to dissuade me.

And there is a reason for it, as you ask, my friend from Pennsylvania. There is a reason for it. I want to know in the 500 deals he made in all the countries around the world -- and I have the list if you care for them -- was there any quid pro quo? Did it cost him anything while he was the President of the United States? And if you don't want to know that, I will pray for you, as you would say.

Eighteen resolutions came before this committee in the House, 18. Eighteen times, the Republican Party blocked us from going forward. I kept on asking, let's do this together, equal amount of people on both sides, on such a very important issue. No question about it. You don't do this every other day.

The law was always on our side, 6103. We laid it out here. Six years ago we laid it out. We have wasted the taxpayers' money. Section 6103 is clear. It was used before. It was used as recently as 2014, when your side -- and we have to say that nowadays because that is the hangover from the last administration. He said, "the other side." I apologize for using that.

The Republican majority manufactured a scandal against Ms. Lerner. Never apologized to the IRS employee that they put on the stakes. And how about all of those other people that were brought in. Their names were released.

Don't give me that hypocritical crap that you throw at us all the time, because it ain't sticking. Trump sought to obstruct our work so that Republicans would quash the chairman's legal request. The Supreme Court was clear. No confusion. I haven't had the minute?

Chairman Neal. I think we better move on, Mr. Pascrell, only because we are looking at 300 minutes if everybody wishes to speak on this.

Mr. Pascrell. Thank you, Mr. Chair.

Chairman Neal. Thank you.

The gentleman from Missouri, Mr. Smith, is recognized to strike the last word.

Mr. Smith of Missouri. Thank you, Mr. Chairman.

Two weeks, 2 weeks from today, you all will be sitting on this side and we will be sitting on that side. Two weeks. We will have a new chairman. One of the three that will be up here will be the new chairman. You are closing a new chapter here. You are writing it. And this is what you are going to be remembered by. That is unfortunate. That is extremely, extremely disappointing.

I have been told since the first day that I got on this committee, this committee is a bipartisan working committee that doesn't attack people politically. We do great things on policies, like working on taxes and healthcare and trade, Social Security. We may not always all agree, and we don't, but sometimes we do, and that is where we come together.

It is so unfortunate that what you all may do today is going to have consequences for a long, long time. Voting to release any citizen's complete tax returns, that will be the first time this committee has ever done that, the very first time. Why would you all want to do that?

But if that happens, the American public will demand other people's tax returns to be released. They will. So think clearly and think hard in your hearts that the decision that you all make today, if you vote to release a private citizen's tax returns, it will have consequences for the precedent of how this new majority in 2 weeks will be governing.

It is your call. It is your actions. And I want to make sure that there is no one

on this committee that does not understand that. You could look into -- when I travel across this country, I went to 42 States this election cycle, and I had countless people tell me of things that they were concerned with President Biden's family dealings and how they believed that him and his family is enriched because of his political power. And they are begging for oversight and accountability on that. And the Treasury has received over 150 red flags from banks concerning the Biden family bank accounts. Do we need to go down all that? Is that what you all are wishing to do?

Be smart, think about what you are doing and the vote that you will make today, because it will make a precedent and it could forevermore change this committee. Like I said, I have heard it from you all time and time again on both sides of the aisle, of current chairmen, past chairmen, this is a bipartisan committee where we all work together. Let's not make this a committee that targets our political enemies.

If we truly care about mandatory audits, let's look at the mandatory audit programs under Obama, under Bush, under Clinton, under Carter, and under Biden. You don't need to release the tax returns of President Trump to do that. You only release the tax returns of President Trump if you truly want to target a political opponent. We are better than that. This committee is better than that. And I ask you all to reflect on that.

I yield back.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Illinois, Mr. Davis, to strike the last word.

Mr. Davis. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Neal. The gentleman is recognized.

Mr. Davis. Thank you, Mr. Chairman. And I have listened all afternoon to a very serious debate. I have listened to individuals express their feelings and opinions.

I have listened to experts share direction and information.

And when I think of the word "fair," if you ask a bird is it fair for birds to eat worms, you get one answer from the bird. You get a different answer from the worm. So it often relates to what perspective are you dealing from.

When I get home at the end of the week, my constituents are going to ask me what did we do and why did we do it? This is the information age. People want to know. They just want to know. They feel that things have been hidden from them too long, that they need to be open, open air, the freshness of information.

If I had not been convinced before today, I am thoroughly convinced that we cannot leave this just to the Internal Revenue Service, that they need some direction in terms of knowing what is expected. Nobody wants to scrutinize, just dig into individuals' personal being and personal lives, but they do want to know whether or not there is a conflict of interest. They do want to know whether or not decisions are being made in the best interests of them, the whole.

And so when I vote yes today, I am going to feel real good knowing that I am voting in the best interests of the people of the United States of America.

And I yield back.

[6:01 p.m.]

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Texas, Mr. Arrington, to strike the last word.

Mr. Arrington. Thank you, Mr. Chairman.

And my comments here, I am not attempting to impugn anybody's motives. But let me say that I don't think anybody in America, at least the majority of Americans and certainly the people from west Texas, believe that this is not politically motivated -- unfortunately for you all as staff. And I certainly don't want to come down heavy-handed with you or come across as heavy-handed, because you have been asked to do a job and you have carried that out.

But there has been no substantive due diligence by this committee, no other Presidents were evaluated in this process, and no other Presidents have disclosed the level of information that was requested of President Trump.

Nobody believes this is a legitimate prospect for reforming a process that may very well need to be reformed, and I have heard interest expressed on both sides for fixing that.

I don't think there is any legitimate reason to review the President's tax information in this manner, and I certainly don't think it is defensible for any reason to make his tax information public, absolutely no justification.

I think today's unprecedented action by the majority party, my Democrat colleagues, will open up an arsenal of endless political abuses of power, as if we don't have enough of that in this institution. It will cheapen the seriousness of this committee. It will diminish the stature of this committee. It will reduce the reputation of this committee. That is my belief.

And worst of all, I think it creates another weapon of mutually assured destruction for this institution as we try to govern the greatest Nation in the history of mankind. It isn't easy. This is going to make it infinitely more difficult.

I read, Mr. Chairman, and I read the op-ed that you wrote, because I was interested to know what was on your heart and mind as it relates to this process and what was driving it. And I thought it was a good piece. I do trust your motives. I certainly don't question them. And I believe you to be a good man and a man of your word.

But you made mention of a principle from even the days of the Magna Carta: that the cornerstone of our democracy is rule of law, not the law of rulers.

I get why people don't like President Trump. I get why people are spun up about wishing him never to grace the presence of our Nation's Capital ever again. I get all of it.

But I think people are so eaten up by this guy that they are willing to become or to allow this committee to become a law of rulers where we say: We don't care what the law says, we are going to force this private -- this citizen and this private tax information to be disclosed to everybody in the name of fixing some process that we know darn well we could fix without disclosing the President's information or we would just include other Presidents.

There are so many ways we could do this to give it the credibility it rightfully deserves. It reeks to me, whether it is true or not for every individual on the committee, of the politics of revenge.

Again, as if there is not enough bloodlust in this Chamber, as if we are not struggling as a Nation enough to be able to hand it better to our children, we have got one more political weapon in a broken culture, in a divided country, and on the committee that I am so proud to serve on and for a man I am proud to serve under, two

men, with you and Kevin Brady.

I just wanted to say those things for the record, for my children and grandchildren to read when they see this place just completely upside down and incapable of solving the big problems that need to be solved so they can inherit a great country.

And, Mr. Chairman, again, thank you for the indulgence. Those are my firm beliefs, and I stand on them on behalf of the people of west Texas.

Chairman Neal. And I understand the gentleman's point.

I would recommend to members of the committee on both sides, particularly the younger members or those that have just come to Congress in recent years, that everybody should read "The Town That Ate Itself" by Joe Klein in The New Yorker. He was an equal opportunity critic. This started even before I came to Congress. And I understand exactly the points that the gentleman has made, because I think that they are sincerely offered.

With that, let me recognize the gentlelady from California, Ms. Chu, to strike the last word.

Ms. Chu. Mr. Chair, I move to strike the last word.

Chairman Neal. The gentlelady is recognized.

Ms. Chu. It is shocking that the IRS did not comply with its own mandate to conduct an audit of the President and Vice President's tax returns.

It was certainly important for this President, who had financial interest in hundreds of business, but in reality every President needs to have this audit done to gain the confidence of the American public.

And, yet, in Trump's 4 years in office, only one mandatory audit was started and none were completed. In fact, for the President's tax returns of 2018, 2019, and 2020, the returns weren't even selected for examination until he left office. The American

public has a right to know of this alarming state of affairs of the noncompliance of the IRS for this very important task.

But they should not just take our word for it. They also need to see for themselves why this is important. And that is why these tax returns must be released.

Contrary to what those on the other side of the aisle are saying, this request does not threaten the privacy of the tax returns for millions of Americans. The Presidency is completely unique. No one else in this country has the immense power to sign bills into law and direct an entire branch of government. And that is why I support the release of these returns and also why we need to codify the Mandatory Audit Program.

I yield back.

Chairman Neal. I thank the gentlelady.

Let me recognize the gentleman from Georgia, Dr. Ferguson, to strike the last word.

Mr. Ferguson. Move to strike the last word.

Chairman Neal. The gentleman is recognized.

Mr. Ferguson. Thank you, Mr. Chairman.

As I sit here and listen to this, I put a lot of thought into it. I think we are really going down two paths here.

Number one, having a legitimate conversation about a presidential audit process. Okay. I think we can all get on board with that.

But when I listen to the reasons and the rational and I listen -- I mean, I am watching the mental gymnastics and the intellectual hurdles that my colleagues on the other side are going through to come to try to stick a landing on something, and it just doesn't make sense.

Let's think about this for a minute. Our IRS agents and the agency itself has the

tools to go through and audit tax returns. If they audit those tax returns and there is something in there that is wrong or illegal, as my colleague from New Jersey has said that he wanted to see, then we have a process there where if there is something that is not right, it is turned over to the Criminal Division and then referred to the DOJ.

So, there is a process. If the former President has done something wrong or illegal, let the process work it out, work itself out.

Also, you are going to release the unfinished audits or unfinished tax returns that haven't been audited -- the audit has not been finished and you are going to release that information to the public that ultimately could be the jurors in a trial. That is tainting it, and that doesn't make sense.

And then I really, truly worry about what happens with this committee, not necessarily next year or the next, but we are opening Pandora's box. We are about to do something that is going to come back and is going to bite this wonderful committee right in the backside.

And I am telling you, with all due respect to our colleagues on OGR, we are about to turn the Ways and Means Committee into OGR on steroids. And the political circus and the political goat rodeo that will follow from this is going to be an embarrassment to the committee, it is going to be divisive to the country, and it is unleashing a political weapon that is going to hurt this country.

Look, like my friend from Texas said, I understand why some of you-all folks and a lot of people around the country have questions about the former President. You may not like him. But to me this is about fighting to protect every single individual taxpayer in America and the privacy that they deserve. That is what this is about. That is what my fight is about.

Let the agency do its work. Let the agency get caught up. I am assuming that

these tax returns that the former President has filed, they could be audited 2 years from now, 3 years from now, 4 years from now. Is that correct? As soon as the IRS gets caught up on their backlog?

So let the process work itself out. Let the agents do their work. Let the criminal side do its work. Let the DOJ do its work if there is anything wrong.

If there are things wrong, it should be corrected. Do that. That is fine. But don't compromise the individual taxpayer. Don't do this. It is going to open up Pandora's box, and we are going to go down a road where eventually every Member of Congress is going to get audited.

I notice the legislation that you had said Presidents and Vice Presidents. Are we are going to then go to the Speaker of the House.

And then we are going to say, well, look, we have got a problem in that the chairman and the ranking member of this committee are writing tax law. Could there be a conflict of interest there? So let's expose those tax returns.

And then what about subcommittee chairmen?

And we are going to go down this road time and time again.

And that is just Members of Congress. What about Cabinet Secretaries? And then all of a sudden you are going to start looking at individuals that may have donated to the opposing party, whichever that may be.

This is a bad precedent. If we want to fix the process, let's fix the process. Let's be clear in the rules going forward and we can even talk about looking backward at the audit process.

But releasing these tax returns, not a single person here has made the case that -- we can simply go out and say, hey, look, we had an executive session, and we all agree that the process is not robust enough and we need to make changes to it.

I will say it again. The mental gymnastics that people are going through to come up with a reason that the only way the American people will believe it is to release the President's tax returns, that is painful and embarrassing.

With that, I yield back.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from California, Mr. Thompson, to strike the last word.

Mr. Thompson. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Neal. The gentleman is recognized.

Mr. Thompson. Mr. Chairman, also I want to thank you for keeping this aboveboard all of the time. You were very, very clear from the beginning that this is about the Presidency, not about the President, and I believe you have stuck to that.

As has been said by everybody, no one is above the law. And my friend, the ranking member, started out by talking about this being precedent setting and it is and sadly it is.

But I want to just remind folks that it is precedent setting because that was the necessitated by the unprecedented actions of the last President, the only President in most of our lifetimes that has not voluntarily released his tax returns.

And the Treasury, the IRS was unprecedented, too. You heard numerous times where it was difficult to work with folks at the IRS.

From what I have read -- and I have read all of the documents -- and from what I understand, the IRS under the last administration failed miserably in regard to the Mandatory Audit Program. The Mandatory Audit Program is -- I think both sides have mentioned this -- it is lacking. And it is in the best interest of our committee, it is in the best interest of our country and our democracy to make sure that we address those

shortcomings.

So I want to thank the chairman also for advancing a proposed piece of legislation that would, in fact, codify this program and to make sure that it is done correctly.

Resources have been talked about, and I think that it is clear there either aren't enough or they weren't devoted to this program to make sure that it was done correctly.

And reading your work, Mr. Barthold, it was pretty clear that there are some gaping holes. And some of my colleagues on the other side talk about all of the entities that were included, in addition to the private tax returns. This is the only President that has had 500 outside businesses or outside entities. So that part is true, but it is true because he is the only one that fits that mold.

But, Mr. Barthold, you, I think, in your work, what I read, it doesn't look like any of those were properly looked at by the IRS. And this program, again, I think it is underfunded, understaffed, and it needs to be fixed.

It is troubling that I read in your report constantly a lack of substantiation, constantly warrants further review, constantly lack of verification, no receipts for foreign companies in the tax payments. These are things that are just glaring.

And it is important that we, I believe together, Democrats and Republicans, work to codify this program, pass the law that will make sure that this is done and done timely.

As it was pointed out, there has been a number of audit notices but no conclusions to date. And I think it is important to note that those notices, at least some of them, were sparked by the chairman's initial letter and request to the IRS.

So thank you again, Mr. Chairman. Thank you, everyone, for your comments and your work on this. I know this is a weighty issue, and hopefully it is one we will be able to resolve positively.

Chairman Neal. I thank the gentleman.

The gentleman from Pennsylvania, Mr. Kelly, is recognized to strike the last word.

Mr. Kelly. Thank you, Chairman.

So, as we start to wrap up and we take a look at what is going on, I just wanted to share with you, because I think you go through the same experiences I go through.

When I go home, I have not been stopped yet in my grocery store and people ask me, "Have you looked at Trump's taxes yet?" When I get gasoline, nobody comes up to me and says, "You know what really bothers me, Kelly? I am paying almost 5 bucks for a gallon of gasoline." Nobody says "Does Trump pay 5 bucks for gasoline, too?"

No matter where I go, if I go to Mass -- I know you do that from time to time, I know I can see it in your eyes -- the priest never says to me, "Hey, before I distribute the sacrament to you, I want to know your position on auditing the President's taxes."

I have ten grandchildren. They are all making up their list of what they want from Santa Claus, not realizing that I am Santa Claus and I am the one that gets to go through the list before any purchases are made.

But we keep dwelling on this, "We have got to do this because it is so important. It is so important." Let me tell you what is important. Maybe you live in different places than I do. People hate the IRS. More than hating the IRS, they hate us, because they can't understand why you all can't just work together.

I say, well, it would be easy if we didn't have televisions on the floor, with people recording everything that happens. It would be easy if we didn't have 24-hour talk shows where we have people who spend two-thirds of their show talking about what they don't like in one party and one-third of their show talking about what they don't like in the other party. So we are equally hated.

And then we come here. And while you may not think it is about Trump, Tom, what, 37 years? Have you ever been asked to look into any other President's tax return?

I mean, surely somewhere in those 37 years, somebody would have said, you know, I am kind of unhappy, I am kind of unhappy with one of these guys. We didn't really take a deep dive and take a look at what it is that they do.

I got to tell you, we get so wrapped around the axle here on fighting among ourselves, we don't see that there are 350 million people wondering: How did these guys get in office. My answer is, well, you elected us all. We just didn't go in and sit down.

So, as we go through these things -- and I know this time of the year we start to look at things are running out. We are running down.

My question is, if this was so important, why did we wait till now? Why did we wait till now? Oh, no, not on Jesus, Bill, you have been barking about it for 6 years, ever since the guy got elected. You wanted Trump's tax returns.

Excuse me. Reclaiming my sign which I did not cede to you.

Because what I really wanted to say is, so if this is really an issue, why is it only this President's taxes that are an issue? Why is it only this personality that is an issue? Why is it that we come here and find a way to argue with each other over a personality and let that dominate our performance? It makes no sense. It makes no sense.

Look, I guess we can keep going back and forth on this and we will. I think, Chairman, I think this may be our last meeting of the year. Some of us we won't see again after tonight, we won't see, because some people won't be back in the next session.

But I do want to say this. As much as there are times we don't get along, I think there are times we get along very well. I think there are a lot of times that we don't think of ourselves as Republicans or Democrats or Independents or Libertarians. We think of ourselves as Americans. And we look back in history and say, wow, one and a

half million men and women in uniform gave up their life to give us this opportunity. Shouldn't we use it a little bit better than we are using it?

So for those of you who will not be back in the next session -- and, believe me, it is not like I can't wait to get in leadership. Some of you who won't be back, it has really been nice serving with you. It is nice being with you. Some of the policy that we have been able to put together has been phenomenal.

And this is the most special time of the year as we celebrate the birth of our Lord and Savior, Jesus Christ.

So, I want to wish you all a very Merry Christmas, not just on my side of the aisle, your side of the aisle, all you sitting out here. At the end of the day, we are all Americans, and we are all blessed in so many ways.

Mr. Chairman, I want to thank you for a fantastic year. Thanks so much.

Mr. Brady, I really hate to see you go. I really hate to see you go. No one thing. You will never be forgotten.

Mr. Neal, thank you again. You have run things very well. Thank you.

Chairman Neal. Thank you. And some of us are sorry that he is going, too.

Mr. Brady. Hold your applause.

Chairman Neal. The gentleman from California, Mr. Gomez, is recognized to strike the last word.

Mr. Gomez. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Neal. The gentleman is recognized.

Mr. Gomez. The underlying principle of our democratic Republic goes back to its founding, the ideal of self-governance, for and by the people, not by a king or a queen or one individual.

And the constitutional framework established thereafter established and created

a system of government based on checks and balances between the executive, legislative, and judicial branches of government.

And in our system there is only one branch that vests all its power in one individual and that is the executive branch and the powers vested in the President of the United States. And as the committee pointed out in its report, no one else has the power to sign bills into law and so forth.

In essence, the American people need to have faith that any individual who holds the office of the President of the United States is making decisions based on their interests and not the self-financial interests of the occupant of that office.

The Mandatory Audit Program was established in 1977, formally establishing a requirement to audit the tax returns of Presidents and Vice Presidents.

But since that time, every single candidate for President has voluntarily released their own tax returns to give confidence to the people that they could be making decisions based on their interests and not their own financial interests. That broke down with the election of Donald J. Trump.

And it is the committee's purpose to review how that audit program was actually functioning or it wasn't functioning, and that is what this is about. It is about was there a sufficient auditing of the President's tax returns and what changes must be made to bolster the confidence of the American people in that program and also any individual who occupies that office is not making decisions based on their own financial interest.

This report, I believe, will help once again balance the power between the legislative and the executive branch by ensuring that no individual believes that they are above the law. And it is with the documents that help bolster the argument that the program was not functioning.

This is something that I believe must be done. I think it will encourage, help

bolster people's faith in the process.

And in the end this will not set a precedent that I cannot fully support. If the precedent will be the release of tax returns for the President of the United States, then I am okay with that, and I believe the American people would be as well.

And then if the incoming majority chooses to use that to go after, as the ranking member put, labor leaders, business leaders, Members of Congress, individuals who occupy different positions, that will be a decision that the incoming majority makes, not the current Democratic majority of the House today.

With that, Mr. Chairman, I will vote aye on both motions -- on whatever motion is made next.

Chairman Neal. I thank the gentleman.

Whatever one is? Whatever motion? Okay.

Dr. Wenstrup is recognized to strike the last word.

Mr. Wenstrup. Thank you, Mr. Chairman.

And I am thinking about the comment of the judge when he made his decision where he said that you can do this but I don't know if it is wise. And I am paraphrasing.

And it reminds me of a quote from Pope John Paul II when he visited America in 1998. He said freedom consists not in doing what you will but having the right to do what you ought.

I will leave you with that thought. Merry Christmas.

Chairman Neal. So, I want to respond diplomatically to the suggestion that the gentleman, because I read his opinion, Judge McFadden. And I think -- I refrained and I think I encouraged members on our side to refrain from criticizing a Federal judge who sat on a case for two and a half years. So I avoided it meticulously and advised staff and others we will not comment on what a Federal judge has to say, because I think that has

gotten out of hand everywhere, too. So we decided that we would refrain from it, hoping that he might move it along.

What I want to say is the legal staff that is here on our side, they couldn't have been any better. They thought it was not a good idea to urge judges in public to do this or that. That might be the system I grew up in, but we stayed with that. I do think two and a half years was a considerable amount of time for one to make up his mind. But, still, we let it play out.

I thank the gentleman for his comments.

And let me recognize the gentleman from California, Mr. Panetta.

Mr. Panetta. Thank you, Mr. Chairman.

Look, as a former prosecutor, I learned early on in my misdemeanor days that you couldn't just prove a case by getting up and arguing it. You prove it with the evidence, basically making sure that the evidence is in front of you upon which to make that argument and prove the case.

And I think the case that we are trying to prove here today is, one, clearly that the presidential audit program is important, but that, two, it is broken, and that, three, we need to fix it with legitimate legislation.

And we can do that, we can prove those with the evidence that is in front of us, not just the reports but the returns that the reports were based on.

And so the issue with us that we have to confront right now is whether or not we place that evidence into the Congressional Record, which clearly is allowed under U.S.C. 26 U.S.C. 6103(f)(4)(A).

Yes, it is rarely done. In fact, only done once before. And I think part of the reason why it is rarely done is because you do not expose for the sake of exposure, and I think it has been proven that that is not what we are doing here today.

The evidence that we want to put into the Congressional Record is to prove our case, one, that the political -- excuse me -- that the presidential audit program is important. A program that was, as we heard, designed in 1977, that deals with the auditing of the most important public servant not just in the United States but in the world. And I think we can all agree upon that, and that is proven beyond all doubt.

But, clearly, we have serious concerns with the presidential audit program as laid out in the report. The fact that one audit was started of the ex-President, none were completed, that is proven in the report. It is proven that basically there was insufficient IRS resources, little substantiation, no complete picture of all entities of the former President, no complete picture of the totality of the deductions that were taken. The program was dormant. Tax years should have been included in the Mandatory Audit Program, the volume of tax return audit volumes, the taxpayer cooperation, and so on and so forth, as laid out in the report, which was based on the returns themselves.

So, once again, the returns prove that the program was broken.

And then that is why we need to introduce legislation, to enhance this program, to prioritize this program, to codify this program, be it with safeguards, be it with guardrails, that is what is needed for this mandatory program, be it for staffing, for specialists.

But I think what it comes down to is for the seriousness of this program and the people of America to realize how serious this program needs to be and how much work needs to be put into this to fix this program.

We have done that based on the evidence. That is what we want the American people to see. And it is that evidence upon which we can prove that the audit program is broken, that it needs fixing, and that it is upon that evidence that we can rely on, that the American people can rely on that shows that we want to legitimize this process through the legislation that you put forward.

Throughout your time in dealing with this subject, Mr. Chairman, you have proven the seriousness of the request, the seriousness and the gravity of what we are about to do. But I think it has been made clear today, it has been made clear by our expert witnesses, it has been made clear in our debate that the evidence that we are relying on in order to create this legislation must be put into the Congressional Record to give us, to give this committee legitimacy.

And with that, I yield back.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Pennsylvania, Mr. Smucker, to strike the last word.

Mr. Smucker. Thank you, Mr. Chairman.

We have heard a lot tonight about the need to release the information to prove that the presidential audit program is not working. But no one, including Mr. Panetta who just spoke, has made the link between what information in the return will tell you that the process is broken.

What I am hearing on a broken process is that the audit wasn't done. It wasn't done. I don't need information in the return to conclude that it is broken when clearly the audit wasn't done. It doesn't matter if he had 400 entities or 6 or 2. If the audit wasn't done, it is not working as it should be.

And we can have that conversation, I understand that conversation, but it doesn't require releasing his returns to the public or putting it in the Congressional Record.

Maybe Mr. Pascrell said the unspoken part out loud, and that is he wants to see what is in the return. He wants to see what is in the return to see if there were conflicts of interest.

Well, there is a lot of people's returns I might want to see. Maybe I want to see

Mr. Pascrell's. But I don't have a right to do that, and you don't have a right to see anyone else's return based on wanting to see it.

The problem is -- and someone else mentioned the checks and balances in our government, and I think it was Mr. Gomez talked about the President being the only one who does, performs certain functions. Well, there is also a clear checks-and-balance system that prevents the legislature from being the judicial branch. And in this case we have -- maybe it was broken, maybe we need to fix it, and, again, we can have that discussion -- but we have the judicial branch, we have the IRS, we have judges, we have prosecutors who are responsible to do this.

And think about the road we are going down. If we each can find a way to get information about private citizens, it is a horrible precedent that we are setting here tonight. We have seen weaponization of Federal agencies. We have seen it, in my view, in the FBI. We have seen it in the IRS.

But we haven't yet seen it in the Ways and Means Committee, and that is exactly what we are seeing tonight if we vote to release a private taxpayer's information against his wishes and against his will.

I don't even want to see his returns. In fact, I didn't look at them. Why would I want to see the returns of an individual who doesn't want me to see them? It is not my job to do it. It is not your job to do it.

So as we are considering this, I know probably everyone's mind is made up here. But I really can't believe what we are talking about here. It is clear it is not needed. No one has made a compelling argument that we need to release the returns to the Republic to make the case that the audit process is broken.

And so that just leaves one thing: It is being done because of individual curiosity or for political reasons. And what we are seeing tonight, I believe, is a weaponization by

the Democrats on this committee, of the Ways and Means Committee, to go after a President they don't like.

It is a terrible precedent. I ask you to think seriously about your vote tonight.

And I yield back my time.

Chairman Neal. I thank the gentleman.

Mr. Hern is recognized to strike the last word.

Mr. Hern. Mr. Chairman, thank you so much. I want to thank you for your leadership. You and I have talked a lot since I have been on this committee and I really appreciate it.

You know, been in leadership positions for over -- almost 30 years now. And you learn a lot along the ways, and you have been a great leader. And leadership requires looking at cooler heads and making sure that you are putting things forward in the way they are supposed to be and understanding what you are supposed to be doing to see the future. And you have been here a long time. You have got a lot of experience.

What we have learned today is a lot of bipartisan, one of the things that is really great being on the committee. What is really great about it is there is no freaking cameras in here and that we can all talk about our hearts.

And everybody on the other side, as Mr. Pascrell or whoever it was, Mr. Thompson said, or can't remember who said it earlier. Mr. Davis said it, I think.

But the great thing about it is that we have all said exactly what needs to be done. Pass laws. We all want laws to be upheld. We want everybody to pay taxes. Everything that every American wants.

And then we get to the end. And the difference, the only difference between each side is and the only way we can do this if you are a Democrat is we have got to put Donald Trump's tax returns out there.

Now we heard, some of you have said, we heard that he didn't provide it. He didn't provide documentation. Tom did not say that. Pardon me for using your first name. It is getting late. But you did not say that he didn't provide. You don't know if he did or not as part of the audit process. And I know you couldn't -- you weren't asked the question so you couldn't respond.

We don't know what is going on behind closed doors. But there is -- you have also said -- and I don't want to put words in your mouth -- I won't call you Karen, but Ms. McAfee -- you have also indicated or failed to opine until Ms. Sewell asked you the question, then you kind of opined a little bit, that there is nothing about exposing his tax returns that is going to change anything about speeding up the audit process, changing the audit process, getting more auditors on the thing. It is really about us taking action.

And my dear friend Mr. Panetta from California made a great statement. We all need to put a law in place. If we want -- we were just kind of all cruising along for the last 50 years, thinking every President was going to do this. Donald Trump didn't. He still got elected.

So, we need to put a law in place that says every President from now on has to put his tax returns out there, her tax returns out there, their tax returns out there. And, by the way, the IRS has to have this special committee to audit those.

We are not auditors. The only reason that this would ever go out into the public is so that we have 1 million different opinions about his tax returns, not because it is going to change anything about what is going on and making the IRS do anything.

I am surprised today, honestly, that I have not heard anybody state -- and I appreciate this and I think it is because there are no cameras in here -- that anybody on my -- my friends over here have said that Donald Trump threatened the IRS, if they audited his tax returns, that he would do something to them. Nobody said that.

You know why? Because I think it has been -- everything has been about policy, about the right thing to do until you get to the political part about Donald Trump's tax returns have to be put out there, because every one of you know, you know this, that it is not going to change anything with the audit process.

The audit process will be changed when we on the Ways and Means Committee do our job, make a law, and hold them accountable and fund them to do their job. Make a law that says that the President of the United States, he or her, she or him, have to put their tax returns out for the public before they can be elected to office. It is part of the process.

We would never have this conversation ever again because the next conversation would be the Judiciary Committee putting them in jail and making sure that they do what they are supposed to do.

And, Mr. Gomez, you said that it is required. It is not required. It has been a tradition. Because then you said it is required but people have volunteered. You can't volunteer for a law. You have to follow the law. It is not a law. I thought it was. Honestly, I think the American people think it is a law. Shame on all of us as the American people thinking that there is a law that says the President of the United States has to put their tax returns out there.

But I want to thank all of you because I do genuinely think this is a great committee and there has been a lot of passion expressed today without the benefit of a camera here because I know how you feel about this.

Mr. Pascrell, you have worked on this a long time. And I love you to death, man.

But we have got to get beyond this and get to doing our laws. And let's make this the one committee -- I know this sounds goofy from a guy that hates politics -- let's make this the one committee that is not political and just do great policy. We will all

sleep better at night.

Thank you. Thank you very much.

I yield back.

Chairman Neal. I thank the gentleman.

Let me recognize the gentleman from Connecticut, Mr. Larson, to strike the last word.

Mr. Larson. I want to thank the chairman and especially thank him for the painstaking amount of integrity that he has put into this process, and he did so not as the Democratic chairman but as the chairman of this committee, because as all of you have indicated throughout the course of this discussion, the importance and significance of this committee and its integrity.

I smile a little bit when I hear people saying this is political. Strange coming from a body that runs for office every 2 years and the moment after you are elected starts raising money for that next campaign that they would be political, that that is indivisible in many respects except when you come to a process and then you apply the process.

So Chairman Neal went about applying a process on a notion that was put forward by Mr. Pascrell 6 years ago. So it is not as though this just happened to pop into people's minds.

But there is a larger issue here as well. When you talk about the integrity of a committee, what ultimately is the committee about? What is the committee actually seeking here? And as importantly, what is the public seeking here? I would submit that it is the truth.

And if you break it down to what people at Augie and Ray's in my hometown would say, they would say what many of you have articulated already. Is the system rigged? Are people of wealth above the law? Is anyone because of their position in

life or wealth or office or lack of thereof any different from any other American? And you know the answer. It is no.

But how do you ultimately find that, and especially given the position that we are talking about? There is only one Commander in Chief. There is only one President of the United States. There is only one person who makes these decisions. And so, therefore, it becomes important to every single American citizen that we know the truth. And you can't go after the truth in any way other than the way the chairman has proceeded in this committee.

And I agree with Mr. Hern why this was so important to be in executive session, so that people would have an opportunity to express what is on their mind.

I have no doubt that people in this room also share the same desire to get to the truth and to make sure that every citizen in this country feels that nobody is above the law. And I elect people to represent me to make sure that that is the case. And how do they know that? Because ultimately they have to get to the truth.

I commend the chairman and yield back.

Chairman Neal. I thank the gentleman.

I believe that Mr. Doggett is the last individual to be recognized to strike the last word.

Oh, I am sorry. Why don't we go to Mr. Kustoff next and then we will come back to Mr. Doggett.

Mr. Kustoff. Thank you, Mr. Chairman. I move to strike the last word.

Chairman Neal. The gentleman is recognized.

Mr. Kustoff. Thank you.

Mr. Chairman, all Americans should be deeply concerned about the dangerous precedent that we may be setting here with this vote and the negative implications it will

have.

If we take this vote and the vote is in the affirmative, Congress is using the Internal Revenue Service and our Tax Code as a political weapon and that will endanger the American public.

And the message to the American public will be, frankly, that no one is safe. What we will be saying if we take this affirmative vote is that, by going forward, the majority party, whether it is in the House of Representatives or in the Senate, will have unlimited power to target and make public the tax returns of anyone. We are talking about public figures. We are talking about elected officials, judges, and certainly private citizens. No one should use the IRS to benefit their own political agenda, and we don't need to weaponize the Internal Revenue Service.

If I can, this morning in The New York Times of all places the headline of the story about this hearing, the headline is, "Release of Trump Tax Returns Could Herald New Era for Taxpayer Policy."

And in the story, they quoted and cited two independent experts. One was George Yin, emeritus law professor at the University of Virginia. I am reading from the story. It said that "The bar should be high for Congress to obtain Mr. Trump's tax returns and even higher to publish them." He is concerned that if the release of the documents is widely viewed as political, then a tit-for-tat scenario is likely to ensure." Quote, "That is the end of tax privacy to me," Mr. Yin said. "Essentially no one's tax information is really protected. As long as you cross some interest who happens to be in power at some particular point in time, then we are all vulnerable."

Also, in the article they quoted John Koskinen, the IRS Commissioner under both Presidents Obama and Trump. This is what he said. Quote, "If they get revealed, it seems to me they ought to have a pretty good reason for why that is in the public

interest. It is a dangerous precedent," close quote.

Now, going back to what Koskinen said, there is no legitimate interest. We didn't hear anything in any questioning or any comments from the witnesses that say and justify that the release of the taxpayer's private returns could somehow benefit the Mandatory Audit Program.

I respect our colleague Mr. Panetta from California and his argument up to a point. But here is the bottom line. Releasing these tax returns and making them public, you cannot connect the dots and say that somehow that makes the Mandatory Audit Program any better. There has been no proof presented here. What we are doing here in this committee today is the slippiest of slippery slopes if, in fact, the vote is in the affirmative.

We all ought to respect privacy, especially the privacy of the taxpayers. If we adhere to that, we shouldn't be holding this markup today. And I would encourage a negative vote.

And, Mr. Chairman, I appreciate you allowing me to speak. Thank you.

I yield back my time.

Chairman Neal. I thank the gentleman.

I would also say that in all my years on the committee, no witness took more verbal abuse at that witness table than John Koskinen. He was pounded from every conceivable -- there were days when he couldn't get a word in. I have got that memory as to how he was handled here. So I did read the article, and I do appreciate the objectivity that he raised in the article.

Let me recognize the gentleman from Texas, who I believe is the last gentleman to be recognized, to strike the last word.

Mr. Doggett is recognized to strike the last word.

Mr. Doggett. Thank you, Mr. Chairman.

I offered the first motion in this committee to obtain Trump's tax returns on Valentine's Day 2017, almost 5 years ago. And I guess we can agree there has been no love lost over this since then.

At that time I said, and I quote, "Full disclosure could disabuse the public of any concern that the IRS is giving the President a free pass," end quote.

Well, we now know that Trump's Internal Revenue Service did just that: It gave Trump a free pass. They did not do anything about auditing him until they received or at least coincidental with the day they received Chairman Neal's letter. They began the first audit for 2015.

A colleague has just suggested that it is good that no one has mentioned anything about Trump threatening or intimidating the IRS. Well, the truth is there is no evidence one way or the other in this file as to whether he called his appointee at the IRS, whether he urged intimidation of agents, because our staff was denied any opportunity to talk with the agent in charge of the audit or anyone at IRS about these matters.

What we do know from a former staff member of President Trump is he wasn't at all reluctant to weaponize the Internal Revenue Code. He was ready to have IRS turn its fire on his political enemies.

I think that most Americans who experience an audit, and we have heard some mention here, they know that the IRS doesn't just take your word for it. And the reason that it is important to have the records of the Trump, the few records we do have, attached is to understand that process.

And it is not just a matter of whether a presidential audit is done but how that audit is done. And in this case when you look at the records, you know that you normally would need backup. You would need some receipts. You would need some

substantiation for these tens of millions of dollars of claimed expense. And yet when you look in the files that we propose to send, there is nothing.

It seems that they were basically willing to take Trump's word for these tens of millions of dollars of expenses or, as is suggested in one of the comments, that they were relying on Trump's accountant instead of any type of substantiation that a normal taxpayer would have to submit.

And I suggest that that is about as meaningful as the one-page letter that he sent our committee when we were considering motions back around 2017 from a law firm that gave him a clean bill of health on his business dealings with the Russians that just happened to be named the Russian law firm -- Russia law firm of the year.

The Inquiry that we did was unfortunately narrow. We have talked about 500 Trump entities. The committee staff looked at eight of those out of the 500.

We talked about years of Trump not paying any taxes, not because of work this committee did but because of investigative reporting by The New York Times. We only looked at 5 years of that time.

And it is noteworthy that again in the fine print here of the report that at the beginning of that 5 years Trump was claiming a loss carryover of \$105 million to avoid having to pay further taxes. The Times had reported previously a \$700 million loss carryover he claimed after getting a \$72.9 million check from the government as part of a loss carryover.

The report that Mr. Barthold did outlines ten different areas, from charitable contributions to income deferral, related party loans, unreimbursed partnership expenses, all of these being issues that you need the returns to understand the extent of what went wrong here.

I believe that when people talk about this being political, the political part was in

denying for 2 years any opportunity to see these returns or get accountability and then for a Trump-appointed judge to sit on this request for documentation for two and a half years, denying access to this.

And, you know, really, I would like to see it explored more fully. But you have told us that come January 3 there will be as little looking into this process, as little oversight as we had for the first 2 years when we tried to get these documents.

Chairman Neal. I thank the gentleman.

Mr. Doggett. I yield back.

Chairman Neal. I thank the gentleman.

Mr. Brady is recognized.

[7:00 p.m.]

Mr. Brady. Thank you, Mr. Chairman. I will be brief.

So, you know, it is always interesting how we view people differently. My view of John Koskinen was that he was perhaps the most corrupt commissioner in IRS history. And I remember sitting here when we asked him when it comes to targeting nonprofits, will you follow the law? And his response with a straight face is, whenever possible, we try to follow the law. We are sort of hopeful IRS always follows the law when it comes to our audits.

Today, look, the claim that Mr. Barthold believes that President Trump's tax returns need to be made public so that the IRS Presidential audit process can go forward, Mr. Doggett, is not true. The claim that we must -- that making public Mr. Trump's private tax returns is essential and required for the Presidential audit process to be adequate is not true.

The statement that we are here because we have to look at potential conflicts in President Trump's business activities undermines your argument that this is about the presidential audit process.

But I worry most -- and this is what I want to say. I worry most about the belief that this does not set a new precedent and a dangerous one. The truth of the matter is, what the Court ruled on and said was that if a chairman has a facially valid reason for seeking these, that that power is unchallenged. Facially valid, the appearance of validity.

That phrase and that ruling, in my view, guts the privacy protections we have had in place the last 50 years, privacy protections that actually, I think, this whole committee believes in, I mean, this whole committee believes.

And that is why, you know, I worry that there will be more political targeting demanded by lawmakers, partisans in both parties. I don't believe any chairman should have or want that power. We have watched the incredible pressure you have been under for the past 6 years to obtain and make public these tax returns.

Within an hour of the Supreme Court passing on it, boom, popping up on Twitter were Republican partisans starting to outline those that we should seek their private tax returns and make public. We know this is true, and we worry that every member of this committee will be pressured in the future to pursue political retaliation in a very, I think, dangerous way.

This is not who we are. This is what we are concerned about in a big way. And I think in the day it changes this committee, it changes our role, and I think it does put at risk the long-held privacy rights of those who file their tax returns. That political targeting, that potential for retribution, gutting those privacy concerns, that is why we are here today opposing this.

I will make a final point here. I am going to offer an amendment that gives us an ability to do exactly what you seek to do, make sure there is a strong and adequate audit process for all returns. And I will talk about that in a moment.

But before we vote, Chairman, I would like to know, perhaps from Ms. McAfee, but from someone, so what are the final documents that we are voting on to make public? I have not seen them. We have heard references to they will be later corrected. We are not the Senate. We don't have conceptual markups. We vote on the text, thank God.

So I think it is crucial before we vote, I assume when we come out of executive session, that we are actually able to see what documents that we, as a committee, are going to vote to make public.

Apparently, the documents we have today are not adequately redacted. The concerns that were raised by Mr. Kustoff and others are worrisome. And so clearly, we ought to know what is in front of us.

Chairman Neal. Do you want to hear Ms. McAfee?

Mr. Brady. Yes, that would be terrific.

Ms. McAfee. I am happy to walk through the documents that are in front of you and that are going to be considered on the motion. So on --

Mr. Brady. Can I ask you, Ms. McAfee?

Ms. McAfee. Yes.

Mr. Brady. The concerns you voiced earlier, and others and you said there was more work to be done in redaction of Social Security numbers, addresses, identifiers like that, that has been done in these documents?

Ms. McAfee. No. So in front of you, these documents are the memos and the reports, along with the attachments that go with that. So the presentation from June 2019 from Treasury. I can walk by them page by page.

Mr. Brady. No, but I guess --

Ms. McAfee. The Social Security numbers --

Mr. Brady. You don't need to go through all of them. I think the key -- you get the question here.

Ms. McAfee. Yes.

Mr. Brady. These haven't been redacted. These have some troubling data in there. When will that occur, and should we not see that before we vote?

Ms. McAfee. The documents that are in front of you are already redacted. There is nothing additional that needs to happen for the packet that is on the table in front of you and that has been available for review since 11 a.m. on Monday.

The documents that would need to be redacted are the actual tax returns. They were available when you were in the room reviewing this packet. There is only one copy of those tax returns. And those tax returns would need to be redacted for things like Social Security number, bank account information.

Mr. Brady. And those are part of the documents that will be made public, correct?

Ms. McAfee. That is correct.

Mr. Brady. And those are not yet redacted?

Ms. McAfee. They are not yet redacted.

Mr. Brady. So those won't be the final documents?

Ms. McAfee. They will be once they are redacted, according to what you all agree to have redacted.

Mr. Brady. So we will see a partial but not final review of the complete documents to be made public, correct?

Ms. McAfee. Yes, although the tax returns are in a separate --

Mr. Brady. Got it. We don't need --

Ms. McAfee. So these documents are final.

Mr. Brady. -- to do the semantics. They will be made public --

Ms. McAfee. But the tax returns are not.

Mr. Brady. Without those redactions.

Chairman Neal. Mr. Doggett and then Mr. Blumenauer are going to wrap it up.

Mr. Doggett. I just want the record to be entirely clear on this. The report from Chairman Neal, which includes as one of its attachments, the report prepared by Joint Tax requires no redaction of any type that has -- I believe there is actually one redaction you made in it, in what we have, but there is no further work, there is not an I

that needs to be dotted or a T that needs to be crossed. These are ready and finished now if we decide to make them public, correct?

Ms. McAfee. Correct.

Mr. Doggett. But as you know -- let me just finish real quick. With reference to the tax returns themselves, those are the only documents that require any further redaction, and the only purpose of the redaction is to remove the very kind of personal matters that were complained about by one of our colleagues for a child, to take off Social Security numbers, identifying numbers, perhaps a home address or something, though I think that is pretty well-known.

So none of the substance of what is in the tax return will be changed at all. The only thing that you would consider changing in any way or redacting, blocking out is personal identifying information and nothing else. Is that correct?

Ms. McAfee. That is correct.

Mr. Doggett. Thank you.

Chairman Neal. An observation from Mr. Blumenauer. Then Mr. Brady will wrap it up. Mr. Horsford, I guess, would like to weigh in.

Mr. Blumenauer. Thank you, Mr. Chairman. Just a point of personal privilege. I appreciated what you said about the abuse that John Koskinen took before this committee. I almost never disagree with Kevin Brady, but I would urge any of you to go ahead and Google John Koskinen. See what a distinguished career he had working for Republican and Democratic administrations. He walked away from a very successful business career and decided to devote himself to public service, and on the receiving end of some of the most difficult challenges, like the District of Columbia, like Y2K.

And I just couldn't let it stand, having a chance to meet him, to know his business associates and watch his public career, to have it sullied like this I think is really

unfortunate. And I would just urge any of my colleagues to if you don't know John, at least Google him and see what he has done and what he sacrificed. Thank you very much.

Chairman Neal. Thank you.

Mr. Brady.

Mr. Brady. So, to be clear, the documents in front of us are accurate, correct?

Ms. McAfee. That is correct. Unless there is something that you want, that is correct.

Mr. Brady. The tax returns, which we have just heard for 5 hours are at the central core of all that is being made public, is not redacted at this point as we are voting on them.

Ms. McAfee. That is correct.

Mr. Brady. And will we see before we vote a list of those redactions of identifiers and potential troubling disclosures before this committee votes?

Ms. McAfee. That is a decision that you all would make.

Mr. Brady. Mr. Chairman, how do we -- look, we are not trying to delay this thing. We are trying to figure out are we going to vote on the documents as we know them to be? Are we going to see those redactions ahead? We are not trying to delay. We are trying to figure out how we --

Chairman Neal. Might I suggest then, I have got great faith in Ms. McAfee and her staff, and if you have somebody that you want to confirm that the redactions have been made, I think that is reasonable.

Mr. Brady. But will we do that before we vote or is that --

Chairman Neal. After we vote. I think we have -- there is good faith here, based upon the committee people that have been involved. I have the highest regard

for, obviously, Ms. McAfee and --

Mr. Brady. We are not challenging that at all. We are just troubled by that process, and maybe others are, but it just worries us.

Chairman Neal. We deem that a technical correction, and I think that we can handle it that way, again, having faith trust in the staff members.

Mr. Brady. No. Well, Mr. Chairman, look, we are not disparaging Ms. McAfee. We know she will do a good job. But our concern here is that that is after the fact and that we won't be voting on the final documents. And we think members ought to be able to see what those redactions are and what those identifiers are. It is a big deal. It is a big deal.

Chairman Neal. So we are of the opinion that that could be done if the gentleman wishes to offer an amendment, and then we will respond to the amendment that the gentleman has offered.

Mr. Brady. So, do you want to call up my amendment on Joint Tax while we develop an amendment for the other?

Chairman Neal. How many amendments does the gentleman intend to offer?

Mr. Brady. I just intend to offer one, Mr. Chairman, but in this discussion, there is room for a second to deal with the other issue.

Chairman Neal. So my suggestion is the gentleman should proceed with his amendment and we will take it up.

Mr. Brady. So, I do have an amendment at the desk, Mr. Chairman.

Chairman Neal. The gentleman is recognized to speak on his amendment. Let it be passed out, please.

Mr. Brady. So, we talked about how we find common ground on examining the adequacy of presidential audits, not just for this President but in the nearly 50 years it has

been in place. We certainly don't know how adequate those IRS audits were on past Presidents. Only one President has been targeted.

So this is a we think commonsense amendment that would refer this investigation of the presidential Mandatory Audit Program to the Joint Committee on Taxation, ask them to review the audits, similar audits, review the documents, review and analyze the IRS rules directing the reviews, and then report back to the committee within 90 days of completing the investigation.

So this is a way to complete your stated goal of reviewing the presidential audit program, but do so in such a way that there is both a thorough and diligent review by an independent and credible organization without creating the precedent and the historic action of making public the full private tax returns of any American. And I would encourage its support.

Chairman Neal. The gentleman has offered an amendment. In response, I would suggest that I believe that the proposal that I intend to offer as part of this evening's proceedings that would require the IRS to publish the tax forms of any President in a timely manner, with concurrence from the Secretary of the Treasury, I think that is the better path for all of us to take.

The question is on the amendment from the gentleman from Texas, Mr. Brady. All those in favor say aye. Those opposed, no. In the opinion of the chair, the noes have it.

Mr. Brady. On that, we request the yeas and nays.

Chairman Neal. The gentleman from Texas has requested the yeas and nays.

The Clerk. Mr. Doggett?

Mr. Doggett. No.

The Clerk. Mr. Doggett votes no.

Mr. Thompson?

Mr. Thompson. No.

The Clerk. Mr. Thompson votes no.

Mr. Larson?

Mr. Larson. No.

The Clerk. Mr. Larson votes no.

Mr. Blumenauer?

Mr. Blumenauer. No.

The Clerk. Mr. Blumenauer votes no.

Mr. Kind?

[No response.]

The Clerk. Mr. Pascrell?

Mr. Pascrell. No.

The Clerk. Mr. Pascrell votes no.

Mr. Davis?

Mr. Davis. No.

The Clerk. Mr. Davis votes no.

Ms. Sanchez?

Ms. Sanchez?

Ms. Sanchez. No.

The Clerk. Ms. Sanchez votes no.

Mr. Higgins?

Mr. Higgins. No.

The Clerk. Mr. Higgins votes no.

Ms. Sewell?

Ms. Sewell. No.

The Clerk. Ms. Sewell votes no.

Ms. DelBene?

Ms. DelBene. No.

The Clerk. Ms. DelBene votes no.

Ms. Chu?

Ms. Chu. No.

The Clerk. Ms. Chu votes no.

Ms. Moore?

Ms. Moore. No.

The Clerk. Ms. Moore votes no.

Mr. Kildee?

Mr. Kildee. No.

The Clerk. Mr. Kildee votes no.

Mr. Boyle?

Mr. Boyle. No.

The Clerk. Mr. Boyle votes no.

Mr. Beyer?

Mr. Beyer. No.

The Clerk. Mr. Beyer votes no.

Mr. Evans?

Mr. Evans. No.

The Clerk. Mr. Evans votes no.

Mr. Schneider?

Mr. Schneider. No.

The Clerk. Mr. Schneider votes no.

Mr. Suozzi?

Mr. Suozzi. No.

The Clerk. Mr. Suozzi votes no.

Mr. Panetta?

Mr. Panetta. No.

The Clerk. Mr. Panetta votes no.

Mrs. Murphy?

Mrs. Murphy of Florida. No.

The Clerk. Mrs. Murphy votes no.

Mr. Gomez?

Mr. Gomez. No.

The Clerk. Mr. Gomez votes no.

Mr. Horsford?

Mr. Horsford. No.

The Clerk. Mr. Horsford votes no.

Ms. Plaskett?

Ms. Plaskett. No.

The Clerk. Ms. Plaskett votes no.

Mr. Brady?

Mr. Brady. Aye.

The Clerk. Mr. Brady votes aye.

Mr. Buchanan?

Mr. Buchanan. Aye.

The Clerk. Mr. Buchanan votes aye.

Mr. Smith of Nebraska?

Mr. Smith of Nebraska. Yes.

The Clerk. Mr. Smith of Nebraska votes yes.

Mr. Kelly?

Mr. Kelly. Aye.

The Clerk. Mr. Kelly votes aye.

Mr. Smith of Missouri?

Mr. Smith of Missouri. Yes.

The Clerk. Mr. Smith of Missouri votes yes.

Mr. Rice?

[No response.]

The Clerk. Mr. Schweikert?

Mr. Schweikert. Yes.

The Clerk. Mr. Schweikert votes yes.

Mr. LaHood?

Mr. LaHood. Yes.

The Clerk. Mr. LaHood votes yes.

Dr. Wenstrup?

Mr. Wenstrup. Yes.

The Clerk. Dr. Wenstrup votes yes.

Mr. Arrington?

Mr. Arrington. Yes.

The Clerk. Mr. Arrington votes yes.

Dr. Ferguson?

Mr. Ferguson. Yes.

The Clerk. Dr. Ferguson votes yes.

Mr. Estes?

Mr. Estes. Yes.

The Clerk. Mr. Estes votes yes.

Mr. Smucker?

Mr. Smucker. Aye.

The Clerk. Mr. Smucker votes aye.

Mr. Hern?

Mr. Hern. Yes.

The Clerk. Mr. Hern votes yes.

Mrs. Miller?

Mrs. Miller. Yes.

The Clerk. Mrs. Miller votes yes.

Dr. Murphy?

Mr. Murphy of North Carolina. Yes.

The Clerk. Dr. Murphy votes yes.

Mr. Kustoff?

Mr. Kustoff. Yes.

The Clerk. Mr. Kustoff votes yes.

Mr. Kind?

[No response.]

The Clerk. Mr. Rice?

[No response.]

The Clerk. Mr. Chairman?

Chairman Neal. No.

The Clerk. Mr. Chairman votes no.

Mr. Chairman, on this vote, I have 24 noes and 16 yeas.

Chairman Neal. There being 24 noes and 16 yeas, the amendment fails.

I want to just inform the minority on this that it is our intention to redact Social Security numbers, PIN redactions, account numbers for bank accounts and routing numbers. I think that covers just about all.

Mr. Brady. And addresses, children's names, issues like that?

Chairman Neal. Ms. McAfee wisely left.

Dr. Ferguson.

Mr. Ferguson. On that list of things that are to be redacted, I think we need to be thoughtful about this and think about other things and other implications. Are there custody agreements, for example?

Again, I am fairly new at this, but just thinking about things that would impact minor children that could be released. We don't have counsel here to guide us on that. So, I mean, I would be curious. My colleagues may have other ideas of things that we should be thoughtful of.

Chairman Neal. I have good faith in the staff members on both sides here to satisfactorily address the concerns that have been raised, and we want to make sure that they are acknowledged.

Mr. Brady. Chairman, I think --

Chairman Neal. Mr. Brady.

Mr. Brady. Again, I think we do need a comprehensive list that has been well thought through. I think all of us share that together. You know, I think if our staffs, frankly, work together over the next hour, I think they could likely identify all those items that are troubling that you will want not to be exposed and made public in this. And I

think that would certainly I think give both the majority and the minority some assurance on the privacy.

Chairman Neal. So I am going to stick to the position I have, and that is that I have faith in your staff and my staff to reach an accommodation that we can all live with.

So are there any other amendments?

Mr. Brady. So let me ask, Mr. Chairman, again, so will this redact all personal identifiable information from all the tax returns under consideration prior to a vote on public release? I think that is the key point here.

Chairman Neal. Ms. McAfee, would you --

Mr. Brady. Prior to a vote on public release.

Mr. Doggett. They will be redacted before the documents, the tax returns are released, but not before the vote.

Mr. Brady. But do you not seek to have some assurance of what those redacted items are, both to confirm them --

Mr. Doggett. He just enumerated what they are. There are no custody agreements in there.

Mr. Brady. He affirmed some of them, but not an exhaustive list that I think our staffs, frankly, could --

Mr. Doggett. That is an exhaustive list. There is nothing to redact other than something that would be a private Social Security number, a PIN redaction, account numbers on bank accounts. Yeah, I guess you can put the home address, although I think everybody knows the address of the President.

Mr. Brady. But of all the eight business entities and everyone doing business with them? No.

Mr. Doggett. The business entities that are there are the ones that are business

entities that are wholly Trump.

Mr. Brady. You have got the 1099s. You have got all those different business formation documents. I am just saying it should have already been done. I think we can all agree on that. It should have already been done.

The question is, do we have that as a committee before we vote to release.

Chairman Neal. My position is going to be we are going to vote and then we are going to take a good faith effort from staff to get this done.

Are there any other members who wish to be heard?

Hearing none, Mr. Thompson is recognized.

Mr. Murphy of North Carolina. Mr. Chairman.

Mr. Smith of Missouri. Mr. Chairman.

Chairman Neal. I am going to go back to this, even though you heard me state, both sides, that we were trying to proceed with a good faith effort here, and we should stick with that because if we want to reopen this and have it here for the rest of the night, I am game.

Mr. Smith is recognized, Dr. Murphy is recognized, and that is going to be the end of it.

Mr. Smith of Missouri. Thank you, Mr. Chairman.

I would strongly recommend that we don't go off of course of tradition of this committee, and that is, is to make sure that we vote on amendments for the final passage.

Chairman Neal. The amendment phase is over.

Mr. Smith of Missouri. So what we will be voting on, Mr. Chairman, will be releasing tax returns that are not redacted?

Chairman Neal. I think the gentleman should be satisfied that what we have

outlined here will be honored fully. And if the staff can make other recommendations, based on both sides, we are open to them. We want that to happen.

Mr. Smith of Missouri. Mr. Chairman, I would think that there would need to be an amendment by this committee saying that you are going to redact all of this information, and you have not done that.

Chairman Neal. I think what you can say is that I will make every good faith effort to accomplish precisely what the gentleman has said.

Mr. Smith of Missouri. That is not an amendment this committee has voted on, Mr. Chairman.

Chairman Neal. I think, Dr. Murphy, would you like to conclude?

Mr. Murphy of North Carolina. Yes, sir. Just one question. If staff does not agree, who is the final arbiter?

Chairman Neal. I think the staff is likely to agree on it.

Mr. Murphy of North Carolina. I would hope so, but if not --

Chairman Neal. Let me frame it this way then, Dr. Murphy: If we can't agree, the majority staff's position will be the one that we sustain.

Mr. Murphy. Thank you.

Chairman Neal. Thank you.

Now Mr. Thompson is recognized for a motion.

Mr. Thompson. Mr. Chairman, pursuant to 26 U.S. Code 6103(f)(4)(A), I move that the committee submit to the House the committee report, including all supporting materials.

Chairman Neal. All debate has expired pursuant to the motion offered by the gentleman from California. The committee will return to open session to take the vote. Please reopen the committee doors.

Hold on a second. So we are going to give just a bit of a pause here to accommodate all the requirements that we have.

[Whereupon, at 7:26 p.m., the committee proceeded to open session.]

[7:29 p.m.]

Chairman Neal. The Ways and Means Committee has now returned to open session, and the question is on the motion offered by the gentleman from California, Mr. Thompson, to submit the committee report, including all supporting materials.

The clerk will call the roll.

The Clerk. Mr. Doggett?

Mr. Doggett. Aye.

The Clerk. Mr. Doggett votes aye.

Mr. Thompson?

Mr. Thompson. Aye.

The Clerk. Mr. Thompson votes aye.

Mr. Larson?

Mr. Larson. Yes.

The Clerk. Mr. Larson votes yes.

Mr. Blumenauer?

Mr. Blumenauer. Aye.

The Clerk. Mr. Blumenauer votes aye.

Mr. Kind?

[No response.]

The Clerk. Mr. Pascrell?

Mr. Pascrell. Yes.

The Clerk. Mr. Pascrell votes yes.

Mr. Davis?

Mr. Davis. Aye.

The Clerk. Mr. Davis votes aye.

Ms. Sanchez?

Ms. Sanchez. Aye.

The Clerk. Ms. Sanchez votes aye.

Mr. Higgins?

Mr. Higgins. Aye.

The Clerk. Mr. Higgins votes aye.

Ms. Sewell?

Ms. Sewell. Aye.

The Clerk. Ms. Sewell votes aye.

Ms. DelBene?

Ms. DelBene. Aye.

The Clerk. Ms. DelBene votes aye.

Ms. Chu?

Ms. Chu. Aye.

The Clerk. Ms. Chu votes aye.

Ms. Moore?

Ms. Moore. Aye.

The Clerk. Ms. Moore votes aye.

Mr. Kildee?

Mr. Kildee. Aye.

The Clerk. Mr. Kildee votes aye.

Mr. Boyle?

Mr. Boyle. Aye.

The Clerk. Mr. Boyle votes aye.

Mr. Beyer?

Mr. Beyer. Aye.

The Clerk. Mr. Beyer votes aye.

Mr. Evans?

Mr. Evans. Aye.

The Clerk. Mr. Evans votes aye.

Mr. Schneider?

Mr. Schneider. Aye.

The Clerk. Mr. Schneider votes aye.

Mr. Suozzi?

Mr. Suozzi. Aye.

The Clerk. Mr. Suozzi votes aye.

Mr. Panetta?

Mr. Panetta. Aye.

The Clerk. Mr. Panetta votes aye.

Mrs. Murphy?

Mrs. Murphy of Florida. Aye.

The Clerk. Mrs. Murphy votes aye.

Mr. Gomez?

Mr. Gomez. Gomez, aye.

The Clerk. Mr. Gomez votes aye.

Mr. Horsford?

Mr. Horsford. Aye.

The Clerk. Mr. Horsford votes aye.

Ms. Plaskett?

Ms. Plaskett. Plaskett, aye.

The Clerk. Ms. Plaskett votes aye.

Mr. Brady?

Mr. Brady. No.

The Clerk. Mr. Brady votes no.

Mr. Buchanan?

Mr. Buchanan. No.

The Clerk. Mr. Buchanan votes no.

Mr. Smith of Nebraska?

Mr. Smith of Nebraska. No.

The Clerk. Mr. Smith of Nebraska votes no.

Mr. Kelly?

Mr. Kelly. No.

The Clerk. Mr. Kelly votes no.

Mr. Smith of Missouri?

Mr. Smith of Missouri. N-O, no.

The Clerk. Mr. Smith of Missouri votes no.

Mr. Rice?

[No response.]

The Clerk. Mr. Schweikert?

Mr. Schweikert. No.

The Clerk. Mr. Schweikert votes no.

Mr. LaHood?

Mr. LaHood. No.

The Clerk. Mr. LaHood votes no.

Dr. Wenstrup?

Mr. Wenstrup. No.

The Clerk. Dr. Wenstrup votes no.

Mr. Arrington?

Mr. Arrington. No.

The Clerk. Mr. Arrington votes no.

Dr. Ferguson?

Mr. Ferguson. No.

The Clerk. Dr. Ferguson votes no.

Mr. Estes?

Mr. Estes. No.

The Clerk. Mr. Estes votes no.

Mr. Smucker?

Mr. Smucker. No.

The Clerk. Mr. Smucker votes no.

Mr. Hern?

Mr. Hern. No.

The Clerk. Mr. Hern votes no.

Mrs. Miller?

Mrs. Miller. No.

The Clerk. Mrs. Miller votes no.

Dr. Murphy?

Mr. Murphy of North Carolina. No.

The Clerk. Dr. Murphy votes no.

Mr. Kustoff?

Mr. Kustoff. No.

The Clerk. Mr. Kustoff votes no.

Mr. Kind?

[No response.]

The Clerk. Mr. Rice?

[No response.]

The Clerk. Mr. Chairman?

Chairman Neal. Aye.

The Clerk. Mr. Chairman votes aye.

Chairman Neal. The clerk will report the tally.

The Clerk. Mr. Chairman, on this vote I have 24 yeas, 16 noes.

Chairman Neal. There being 24 yeas and 16 noes, the motion to submit the committee report to the House is agreed to, and the documents are ordered reported to the House.

Pursuant to clause 2(l) of Rule XI, without objection, members will have two additional days to file with the committee clerk supplemental dissenting or minority views.

Without objection, the staff is authorized to make technical corrections to the report and to redact sensitive personal identifiable information, such as Social Security numbers, street addresses, personal identification numbers and banking information.

For the purpose of the Ways and Means Committee business having been accomplished, the committee stands adjourned.

Mr. Brady. Mr. Chairman on that last note, if I may, so two questions, parliamentary inquiry: One, can you explain what this committee did related to the concerns that the private tax returns right now include personal identifiable information

that would be troubling and a dangerous precedent?

And our concern is that the committee is not voting on the full documents that will be released to the public. We think that is a significant mistake.

Chairman Neal. I think that we can assure all that every deliberative effort will be made to make sure that in these instances, all of the questions that you raised will be accommodated as we outlined earlier. And the staff on both sides I hope can find agreement or the majority staff will prevail, but we did address those issues earlier.

Mr. Brady. In our strong view, this committee should always be voting and knowing exactly what we are releasing certainly in text into the public.

And the second point, maybe a more practical one, can you please advise us now on what, now that these documents will be made public, what Members of Congress may say when this meeting concludes?

Chairman Neal. Well, I would advise that the speech and debate clause be acknowledged. We did participate in executive session. And I believe that we have been advised, as I have now for years and those who are watching, the media will reinforce, I want to say this: After a long process, that this was not about being punitive, it was not about being malicious, and there were no leaks from the committee. We adhered carefully to the law.

And my advice to all members of the committee is to acknowledge the realities of the speech and debate clause and be very careful about word selection.

With that, there being no further business, the committee stands adjourned.

[Whereupon, at 7:35 p.m., the meeting was adjourned.]